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Racism, racial discrimination, xenophobia and related forms of intolerance: follow-up to and implementation of the Durban Declaration and Programme of Action

Report of the Ad Hoc Committee on the Elaboration of Complementary Standards on its seventh session*, **

Chair-Rapporteur: Abdul Samad Minty (South Africa)

Summary

The present report is submitted pursuant to Human Rights Council decision 3/103 and Council resolutions 6/21 and 10/30. The report is a summary of the proceedings of the seventh session of the Ad Hoc Committee on the Elaboration of Complementary Standards and the substantive discussions that took place during the session, including the consideration by the Committee of the questionnaire and summary of responses conducted pursuant to Council resolution 21/30.

* The present report was submitted after the deadline in order to reflect the most recent developments.
** The annexes to the present report are reproduced as received, in the language of submission only.

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I. Introduction

1. The Ad Hoc Committee on the Elaboration of Complementary Standards submits the present report pursuant to Human Rights Council decision 3/103 and Council resolutions 6/21 and 10/30.

II. Organization of the session

2. The Ad Hoc Committee held its seventh session from 13 to 24 July 2015. During the session, the Committee held 16 meetings.

A. Attendance

3. The session was attended by representatives of Member States, non-Member States represented by observers, intergovernmental organizations and non-governmental organizations in consultative status with the Economic and Social Council.

B. Opening of the session

4. The 1st meeting of the seventh session of the Ad Hoc Committee was opened by the its secretary. The Chief of the Anti-Racial Discrimination Section of the Office of the United Nations High Commissioner for Human Rights (OHCHR) made an opening statement noting that racial discrimination is all too present today in modern societies across the globe and takes many contemporary forms. As such, the work of the Committee was not merely to agree on new standards but ultimately to think of ways to strengthen the protection of all persons from the scourges of racism, racial discrimination, xenophobia and related intolerance, as articulated in the Durban Declaration and Programme of Action. He recalled the opening remarks of the United Nations High Commissioner for Human Rights at the previous session, indicating that the task of the Committee was to indicate how the international community could ensure greater decency — greater dignity, equality and fairness — for the millions of victims of those violations.

C. Election of the Chair-Rapporteur

5. At the 1st meeting, the Ad Hoc Committee elected Abdul Samad Minty, Permanent Representative of South Africa to the United Nations Office at Geneva, as its Chair-Rapporteur, by acclamation.

6. The Chair-Rapporteur thanked the Ad hoc Committee for his re-election, noting that he would work collectively with all partners and members of the Committee. He recalled that, in paragraph 199 of the Durban Programme of Action, the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance had recommended that the Commission on Human Rights prepare complementary international standards to strengthen and update international instruments against racism, racial discrimination, xenophobia and related intolerance in all their aspects. He said that the Committee's discussions would continue with the incremental approach adopted in previous sessions. In that regard, he considered it useful to explore possibilities for an international regulatory framework for xenophobia given that its more aggressive manifestations needed stronger measures. He noted in particular the blatant acts of racism and xenophobia in and around

soccer fields that continued to be witnessed in many countries because adequate action had not been taken to counteract them.

D. Adoption of the agenda

7. At the 1st meeting, the Ad Hoc Committee adopted the agenda for the seventh session (A/HRC/AC.1/7/1).

E. Organization of work

8. The Chair-Rapporteur introduced the draft programme of work (see annex III), which was adopted at the 1st meeting.

9. The Chair-Rapporteur invited general statements about the session from delegations and participants.

10. The Ambassador of Brazil stated that Brazil attached great importance to the full and effective implementation of the Durban Declaration and Programme of Action and the outcome document of the Durban Review Conference, noting that the follow-up mechanisms played a central role in that regard. The Ambassador expressed appreciation that the Ad hoc Committee would further address the issue of procedural gaps in the International Convention on the Elimination of All Forms of Racial Discrimination at the session, and welcomed the proposed discussion with members of the Committee on the Elimination of Racial Discrimination on issues such as reservations, reporting and general recommendations. Brazil was interested to hear the views of the Committee on the key elements with regard to procedural gaps and best ways to address them. Brazil also noted with appreciation the inclusion of the issue of racism and sport in the Ad Hoc Committee's agenda, and welcomed the conclusions of the report of the sixth session in that regard. Brazil stressed its support for the International Decade for People of African Descent, which began on 1 January 2015, with the theme "People of African descent: recognition, justice and development", and for the implementation of its programme of activities.

11. The representative of Algeria, on behalf of the African Group, stated that acts of racism, xenophobia, intolerance and Islamophobia that had previously been discreet now appeared openly, had become commonplace and were evident and unrestrained in political speeches, in the media and through the Internet. The rise in racist and xenophobic acts affected migrants, refugees and asylum seekers, who were most vulnerable to those phenomena, and affected their rights, thus making it imperative to develop a victim-centred approach. Despite its six sessions, the Committee had not been able to fulfil its mandate, namely, the elaboration of complementary standards to the Convention. In the light of these discussions, it was apparent that there were procedural and substantive shortcomings prevalent in existing instruments. In the absence of additional standards, measures taken by States may lack coherence and would not be in compliance with international norms and standards of human rights. The African Group remained convinced of the need to enable the Ad Hoc Committee to fulfil its mandate, adding that the notion of gaps in existing international instruments should not be interpreted in an absolute fashion. It would be important to look at gaps in existing standards with a view to covering contemporary forms and manifestations of racism and to protecting victims. The Group hoped that the Committee would eventually allow stakeholders to focus on the situation of victims of racism, xenophobia and intolerance, who were increasing in number and whose fate should be a concern to all.

12. The representative of the Bolivarian Republic of Venezuela reiterated its support and collaboration in the exercise of the important mandate of the Ad Hoc Committee. It was

committed to the fight against racism, discrimination and related intolerance and, in what is now the eighth year of the Committee, reaffirmed the need for the elaboration of complementary standards to strengthen and update the international legal framework, to deal with the new expressions of racial discrimination and related intolerance and protect victims. The delegation regretted the lack of support of some countries in this crucial mandate over the years and reiterated its call to Member States to undertake the effective implementation of the Durban Declaration and Programme of Action. It valued the important interaction with members of the Committee on the Elimination of Racial Discrimination in identifying gaps and other relevant issues under the Convention.

13. The representative of South Africa aligned herself with the statement delivered by Algeria on behalf of the African Group. She stated that the dialogue that the Ad Hoc Committee had had since its inception had provided it with ample opportunity to reflect on the substantive and procedural gaps to the Convention that the requisite instrument or instruments was or were supposed to address. The representative recalled the various key thematic issues that the African Group and South Africa had identified over the years as contemporary manifestations of racism, including xenophobia, Islamophobia, anti-Semitism, propagation of racist and xenophobic attacks through cyberspace (cybercrime), racial profiling and incitement to racial, ethnic and religious hatred. The victims of profiling in those areas required better protection, maximum remedies and total elimination of impunity for the perpetration of these acts of racism. The victims of those crimes did not require the Committee to hold academic debates on whether complementary standards were necessary or not. It was therefore of the view that such a debate would be moot and unhelpful. It considered that all that was required was to implement paragraph 199 of the Durban Declaration and Programme of Action, in which the World Conference instructed the Commission in 2001 to elaborate complementary standards. South Africa maintained that any attempt to negate that instruction was indeed an attempt to renegotiate that outcome document. The Committee could not afford to avoid its responsibility to protect victims of racism and racial discrimination, as doing so would be tantamount to emasculating the plight of the victims of those scourges. It reiterated its call to end the rhetoric about combating racism and, in that regard embark on concrete actions to eradicate those social evils, and looked forward to constructive and meaningful discussions to address the very important subject matter before the Committee.

14. The representative of the European Union stated that all forms of manifestations of racism and xenophobia were incompatible with the founding values of the European Union, which are those of the respect for human dignity, freedom, democracy, equality, rule of law and respect for human rights. It remained firmly committed to combating those phenomena both within the European Union and throughout the world. The representative recalled the fiftieth anniversary of the adoption of the Convention, to which all European Union members States are parties, stating that the Convention was the bedrock for the worldwide fight against racial discrimination. The representative stated that the European Union remained fully committed to the primary objectives and commitments undertaken at the World Conference against Racism, and to engaging with the Working Group of Experts on People of African Descent, the Ad Hoc Committee and the Intergovernmental Working Group on the Effective Implementation of the Durban Declaration and Programme of Action. However, it raised the question of whether six weeks of working group meetings per year were the most effectively way of spending resources in the fight against racism. As to the current session of the Ad Hoc Committee, it noted that the five informal consultations with regional and political coordinators during the intersessional period lacked participation and contribution from many groups. The European Union hoped that the Committee would remain seized of the topics as defined in the programme of work, and that all could engage in discussions constructively. To that effect, the European Union was

willing to share experiences in dealing with those issues and looked forward to hearing contributions from all parts of the world.

15. The Ambassador of Ethiopia expressed his country's support for the statement delivered by Algeria on behalf of the African Group. Ethiopia shared the view that, despite some progress made thus far by the Ad Hoc Committee to sort out the core issues that needed to be addressed, much remained to be done to implement fully its mandate in a more expeditious fashion. He recalled the mandate of the Committee, as recalled by the Council in its resolution 6/21. Although the Committee was not yet closer to the desired stage of elaborating the expected complementary standards due to various differences, Ethiopia believed that the sixth session of the Committee had been effective in identifying the major topics to be discussed, including at the current session. During the course of its deliberations, the Committee would be in a much better position to address those differences, in particular the key thematic issues of forms and measures of racism, racial discrimination, xenophobia and related intolerance. He reiterated the readiness of Ethiopia to engage cooperatively and constructively with all other delegations that pursue similar goals of further advancing the crucial collective tasks of elaborating the much-needed complementary standards the effective and efficient implementation of the Convention.

16. The representative of the United States of America underlined the commitment of his Government to the overarching topic of the session: combating racism and racial discrimination. He echoed earlier statements citing the fiftieth anniversary of the Convention and the International Decade for People of African Descent. He stated that recent events in the United States had highlighted the pertinence and timeliness of the Committee's work on the important topic. He reiterated the long-standing position of his country that it saw no need for additional substantive binding international law instruments in this field. Nevertheless, it believed that the Committee's mandate included the promotion of initiatives, such as consensus action plans. Although there were differences on some issues, the United States looked forward to a productive dialogue and to exchanging views during the sixth session of the Ad Hoc Committee. He hoped it would be useful for the Human Rights Council to consider the issue of the duration of the sessions of the Ad Hoc Committee, noting that nine days appeared to be more time than the Committee needed.

17. The Ambassador of Pakistan, on behalf of the Organization of Islamic Cooperation (OIC), recalled that, in 2007, resolution 6/21 recalled the mandate of the Ad Hoc Committee to elaborate, as a matter of priority and necessity, complementary standards in the form of either a convention or additional protocol(s) to the Convention, filling the existing gaps in the Convention, and providing new normative standards aimed at combating all forms of contemporary racism, including incitement to racial and religious hatred. Over the past six sessions, the Committee had held deliberations on several thematic areas. He took note of the thematic areas selected for the current session, in particular: presentation and discussion on the purpose of general recommendations by the Committee on the Elimination of Racial Discrimination; and the process leading to their issuance in the context of the effective implementation of the Convention, and any possible shortcomings.

18. The Ambassador of Pakistan noted with concern that the Ad Hoc Committee had not been able to achieve its core mandate, i.e., to elaborate complementary standards in the form of an additional protocol to the Convention. In the light of extensive deliberation of the past six sessions, OIC believed that there were procedural as well as substantive gaps in the Convention that may only be overcome by formulating an additional protocol. In the absence of such an additional protocol, measures taken by States would lack universality, uniformity, objectivity, coherence and adherence to international human rights norms and standards. He stated that OIC believed that the current session of the Committee should focus on streamlining the elements for an additional protocol, including, inter alia, establishing an inquiry procedure on the lines of other human rights instruments for the

Convention; strengthening national mechanisms; the criminalization of hate speech or incitement to hatred that leads to imminent violence and criminalization of xenophobic acts; effective remedies, in particular compensation/reparations to victims; and combating racial and religious profiling and discrimination. In conclusion, he requested the Chair-Rapporteur to prepare, on the basis of the deliberations from the seven sessions of the Ad Hoc Committee, elements of draft additional protocol during the intersessional period and share it with the Member States before the eighth session of the Committee for further consideration.

III. General and topical discussions

A. Assessment of the use of the complaint mechanism under article 14

19. At the 2nd meeting, on 13 July, Marc Bossuyt, member of the Committee on the Elimination of Racial Discrimination, gave a presentation on the assessment of the use of the complaint mechanism under article 14 of the Convention. A summary of his presentation and the discussion with the meeting participants that followed is provided in annex I to the present report.

B. Issues, challenges and best practices pertaining to reporting under the International Convention on the Elimination of All Forms of Racial Discrimination

20. At the 3rd meeting, on 14 July, the Chair-Rapporteur recalled that, in the report on its sixth session,[1] the Ad Hoc Committee agreed to discuss at its seventh session issues, challenges and best practices pertaining to reporting under the Convention. As agreed by the coordinators of the regional groups, all States were invited to volunteer to brief the Ad Hoc Committee on their individual experiences in this regard during the seventh session. During the session, the representatives of Belgium, Ecuador (on its own behalf and again on behalf of the Community of Latin American and Caribbean States (CELAC)), Guatemala, Mexico, Norway, Pakistan, South Africa and the United States gave briefings. Summaries of those presentations and the discussion with the meeting participants that followed is provided in annex I to the present report.

C. Presentation and discussion on the purpose of general recommendations by the Committee on the Elimination of Racial Discrimination

21. At the 4th meeting, on 14 July, Anastasia Crickley, Vice-Chair of the Committee on the Elimination of Racial Discrimination, gave a presentation on the purpose of the general recommendations made by the Committee and the process leading to their issuance in the context of the effective implementation of the Convention. A summary of her presentation and the discussion with the meeting participants that followed is provided in annex I to the present report.

[1] See A/HRC/28/81, para. 97 (a).

D. Comparison of the relevant procedures of other treaties

22. At its 5th meeting, on 15 July, Simon Walker, Chief of the Civil, Political, Economic, Social and Cultural Rights Section of the Human Rights Treaties Division at OHCHR presented a comparative overview of the relevant procedures of the treaty bodies. A summary of the presentations and the discussion with the meeting participants that followed is provided in annex I to the present report.

E. Procedural gaps with regard to the International Convention on the Elimination of All Forms of Racial Discrimination

23. At its 7th meeting, on 16 July, the Ad Hoc Committee considered the topic "Further elaboration of the views of the Committee on the Elimination of Racial Discrimination on key elements with regard to procedural gaps and best ways to address them (follow-up to the 2007 study and the different presentations given and proposals made to the Ad Hoc Committee in accordance with its mandate)" (see A/HRC/28/81, para. 97 (b) (i)). A summary of the discussion on that topic is provided in annex I to the present report.

F. Sport and racism

24. At the 9th meeting, on 20 July, the Committee considered the issue of racism and sport. Todd Crosset, Professor at the University of Massachusetts, Delia Douglas, Professor at the University of British Columbia, and Benjamin Cohen, Head of Governance and Legal Affairs, International Basketball Federation gave presentations on the topic. The discussion on racism and sport continued later that day at the 10th meeting, in which Gerd Dembowski, Diversity and Anti-Discrimination Manager at the Sustainability Department of the International Federation of Football Associations (FIFA), Daniela Wurbs of the organization Football Supporters Europe and Des Tomlinson of the Football Association of Ireland made presentations to the Ad Hoc Committee. A summary of the presentations and the discussion with the meeting participants that followed is provided in annex I to the present report.

G. Panel discussion to provide a comparative perspective on national, regional and subregional mechanisms

25. At its 11th meeting, on 21 July, a panel discussion was held to provide a comparative perspective on national, regional, and subregional mechanisms. Unfortunately, the person who had been scheduled to speak on the African Union human rights system that addresses racism, racial discrimination, xenophobia and related intolerance, Michelo Hansungule from the Centre for Human Rights at the University of Pretoria, was unable to attend the session in Geneva owing to a travel constraint. Linda Ravo from the Directorate for Fundamental Rights and Union Citizenship at the European Commission and Lyal S. Sunga, Head of the Rule of Law Programme at the Hague Institute for Global Justice, participated in the panel discussion. A summary of the discussion is provided in annex I to the present report.

H. General discussion and exchange of views, 12th meeting

26. On 21 July, the Ad Hoc Committee held a general discussion and exchange of views at its 12th meeting. The Chair-Rapporteur asked delegations to consider how to move

forward on the topic of the questionnaire and responses received. He mentioned the low response rate but he considered that the process was almost finished and invited delegations in preparation of the next meeting of the session to think about proposals on the basis of the interaction with panellists.

27. The representative of Brazil conveyed her appreciation to the Chair-Rapporteur for his leadership and welcomed the organization of enlightening presentations. The representative stated that, on procedural gaps, the presentations that had been made over the previous few days, particularly by members of the Committee on the Elimination of Racial Discrimination, had indicated that the Committee still lacked an official mandate to engage in actions, such as visits to countries and in follow-up to its recommendations, which were key for it to effectively fulfil its functions and fully implement the obligations under the Convention. Other treaty bodies created after the Committee had already established provisions on related issues. Therefore, additional norms could be needed in this area, and further discussion was required. The representative welcomed the idea of an updated report of the Committee on this issue. She added that the issue of racism and sport should be noted in the outcomes to the seventh session. Her delegation favoured the development of a plan of action or guidelines, etc. She concluded by noting that Brazil would be hosting the first regional conference of the International Decade for People of African Descent in Brasilia in December 2015.

28. The representative of South Africa stated that, in her delegation's view and in the light of the various presentations, there were gaps in the Convention, notably procedural gaps. In future sessions, the Ad Hoc Committee should make progress on elaborating complementary standards to close those gaps.

29. The representative of Pakistan on behalf of OIC thanked the Chair-Rapporteur for arranging to have expert speakers address the Ad Hoc Committee at the session and highlighted that a number of important thematic areas, from sport and racism to national mechanisms, had been discussed so far. From the discussions at the previous six sessions and the current session, in the view of OIC it was quite evident that were substantive and procedural gaps. She agreed with the representatives of Brazil and South Africa that a form of complementary standards was needed. With regard to the position of the Committee on the Elimination of Racial Discrimination on procedural gaps, it had only proposed procedural gaps because its position was that their 35 general comments filled the substantive gaps of the Convention. However, OIC believed that the interpretative analysis of the Committee was insufficient to implement the Convention with respect to dealing with xenophobia, the establishment of national equality mechanisms and the development of national action plans against racial discrimination, all of which posed significant gaps. There was a need therefore to standardize and provide uniformity to those processes. Without an additional protocol articulating universally agreed norms and standards, it would be difficult for States to streamline and develop laws, policies, national action plans and mechanisms and also deal with racism, racial discrimination, xenophobia and related intolerance at the national level. Concerning hate speech and hate crimes, the representative noted the need for complementary standards in the form of an additional protocol and stated that OIC considered it important to commence looking at the elements of such a protocol. The way forward needed to be discussed at length in the coming days and in the coming session by the Committee.

30. The representative of the United States expressed appreciation for the draft document containing a compilation of the Ad Hoc Committee's considerations of the topic of procedural gaps over the previous six sessions. In his view, it illustrated a lack of consensus on procedural gaps and reflected concerns, including costs and duplication of efforts, as well as the need to fully implement existing standards and procedures. Concerning the issue of procedural gaps, he mentioned the recent treaty body reform

process and that some of its outcomes had addressed some problems associated with reporting to the Committee on the Elimination of Racial Discrimination. Focus should be placed on improving implementation of existing obligations and standards, rather than creating new procedural obligations. He recalled the existing individual communications procedure, under article 14 of the Convention. He said that several special procedure mandate holders working on the issues were already undertaking country visits, such as the Working Group of Experts on People of African Descent, the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, the Independent Expert on minority issues and the activities planned as part of the International Decade for People of African Descent. His delegation was not convinced that country visits would be a good way to use the Ad Hoc Committee's time, expertise and resources. Regarding national mechanisms, he stated that countries were already free to set them up. With regard to substantive gaps, an additional optional protocol could damage the core treaty by diluting the focus of Member States, overburdening the Committee on the Elimination of Racial Discrimination with new issues and undermining its current scope by implying that some issues are not addressed by it. He recalled the discussions on forms of complementary standards that were not binding, such as best-practice documents and additional guidelines in the area, which could be valuable and useful in the important fight against racism. He stated that the Ad Hoc Committee could move forward to develop such non-binding documents.

31. The representative of the European Union made some preliminary observations and recalled that the presentations by the Committee on the Elimination of Racial Discrimination confirmed that the substantive provisions of the Convention were sufficient to cover contemporary issues. The European Union stressed the importance of optimizing the existing monitoring procedures of the Committee, namely, through the urgent action procedure and full reporting obligations. A new procedure held the risk of duplication and overlap between the Human Rights Council mechanisms and the work of OHCHR.

I. Questionnaire conducted pursuant to paragraph 4 of Human Rights Council resolution 21/30

32. At the 13th meeting, on 22 July, the Chair-Rapporteur referred to two documents distributed to delegations at several previous sessions of the Ad Hoc Committee and by e-mail to regional coordinators prior to the seventh session. The documents were entitled "Resumed third session of the Ad Hoc Committee on the Elaboration of Complementary Standards — list of topics discussed in the second session" and "Fifth session of the Ad Hoc Committee on the Elaboration of Complementary Standards — list of topics contained in A/HRC/18/36: report of the Ad Hoc Committee on the Elaboration of Complementary Standards on its third session".

33. The documents were distributed once again at the 13th meeting, at which the Chair-Rapporteur reiterated the list of topics discussed as items on the programme of work at the previous sessions, indicating that the topic of xenophobia and the topic of racism and sport had been discussed at three sessions, and national mechanisms and procedural gaps with regard to the Convention had been considered at four sessions. In addition to the list, he recalled that, during the fifth session, the Committee had decided that it was important to discuss prevention/awareness-raising and affirmative action/special measures, and those topics had also been discussed at the sixth session as part of its programme of work. He indicated that the Committee should make use of the lists in consideration of topics for future sessions and in determining how to move forward with its work. The discussions at the 13th meeting took place on the basis of the documents.

34. The Chair-Rapporteur referred to the questionnaire sent to Member States in 2013 in preparation for the fifth session and recirculated again in 2014 in view of the sixth session, and indicated that 43 replies had been received. However, some of the questions had not been answered by respondents. Given that the themes and items included in the questionnaire had been agreed by consensus by regional coordinators, it was surprising that the inputs had not been received. He asked what the Committee should do with the questionnaire. He noted the importance of moving forward and concluding consideration of some of the topics. In that regard, the issue of racism and sport may require consideration at an additional session.

35. The representative of Brazil noted that, for her country, the questionnaire was an important exercise that accurately reflected the discussions that had taken place during the previous few sessions of the Ad Hoc Committee. According to the responses received, xenophobia and national mechanisms were concerns that were very relevant to countries. However, there was not yet a consensus on the issue of gaps with regard to those topics. Additional discussions could be needed on the topics, and the views of the Committee on the Elimination of Racial Discrimination on how the Convention related to those issues was essential. Alternatively, the Ad Hoc Committee could reflect on the possibility of favouring the development of plans of action, guidelines or a Human Rights Council resolution on the issues. She mentioned that, on the issue of procedural gaps, the questionnaire had indicated that the Committee on the Elimination of Racial Discrimination still lacked an official mandate to engage in actions, such as visits to countries, follow up to its recommendations and early-warning procedures, in line with what had been presented by the members of the Committee at the seventh session of the Ad Hoc Committee. Other treaty bodies created since the Committee on the Elimination of Racial Discrimination already had provisions on related issues. Therefore, a new report by the Committee on those issues would be beneficial to the Ad Hoc Committee.

36. The representative of the United States referred to the questionnaire and provided an update to his Government's responses submitted to the original questionnaire in 2013. Since then, he highlighted that his country has significantly increased its internal mechanisms to address xenophobic violence and modern forms of discrimination, consistent with the obligations of the United States under the Convention on the Elimination of All Forms of Racial Discrimination and other conventions. He mentioned two examples: first, in January 2015 the United States Federal Bureau of Investigation began collecting more detailed data on crimes that are bias-motivated, including against Arab, Hindu and Sikh individuals; second, in June 2015, the United States Supreme Court upheld the use of disparate-impact liability under the Fair Housing Act, a tool that addressed less overt forms of housing discrimination. Regarding the questionnaire, he suggested recommending a set of conclusions on the questionnaire at the next session while still encouraging those countries that had submitted replies to provide follow-up responses and those that hadn't to provide responses. On the list of topics, he agreed that the issue of racism and sport would benefit from further discussion. It was advisable to discuss what sort of product the Committee could prepare. He added that this Committee could be useful in developing guidance or best practices.

37. The delegate of the European Union mentioned that nine of its individual members and the Union as a regional group had responded to the questionnaire. For the report to be representative and relevant, a global snapshot of responses was required. If the decision was taken to recirculate the questionnaire, it should be circulated to those countries that had not yet responded. She stated that the questionnaire should not be an infinite exercise. She added that the topic of racism and sport merited further discussion.

38. The representative of South Africa stated that recirculation of the questionnaire would not necessarily elicit more responses, particularly as many delegations were

overburdened by requests to respond to the various other reporting mechanisms in the United Nations system. On the proposal concerning the topic of racism and sport, she suggested that work could start on guidelines and practice and requested further clarification from the representative of the United States in that regard. The representative suggested that the protection of migrants against racist, discriminatory and xenophobic practices could be a future topic to be considered by the Ad Hoc Committee.

39. The representative of the United States clarified that, if the topic of racism and sport was placed on the agenda of the next session, the Ad Hoc Committee should be more directive and it was perhaps time to contemplate a product beyond the discussion. Referring to the list of topics distributed, he mentioned that other topics raised by delegations in the course of the sessions were not on the list and could also be considered.

40. The Chair-Rapporteur clarified that the distributed documents contained topics approved by the Ad Hoc Committee as consensus topics to be taken up at current and future sessions and were the result of negotiations and agreement in the Committee. He referred to the footnotes in the documents. Furthermore, the reports reflecting the agreed list of topics had been adopted by the Committee at its sessions and presented to the Human Rights Council. Other suggestions did not appear on the lists because they had not been approved; however it was likely that they had been referenced in the various reports of the Ad Hoc Committee. He added that a product or outcome on racism and sport could be necessary. He also enquired about how to proceed on the question of discharging the Ad Hoc Committee's mandate if no consensus was achieved during the session, and raised the possibility of reverting to the Council.

41. The representative of Brazil welcomed a continuation of the consideration of racism and sport. She mentioned that the Committee could adopt conclusions or a document and suggested that it start with a text during the next session. She recalled Human Rights Council resolution 13/27 on a world of sports free from racism, racial discrimination, xenophobia and related intolerance, which could be used for this purpose. As for the proposal to consider the protection of migrants against racist, discriminatory and xenophobic practices, she recalled the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, and said it would be important to consider how the Committee on the Elimination of Racial Discrimination and the Ad Hoc Committee overseeing that International Convention dealt with the issue, in order to avoid duplication and determine how complementary the issues could be. She noted that the issue of multiple forms of discrimination had been addressed in all presentations and may be an important topic for discussion at the next session.

42. The representative of South Africa mentioned that, as a first step, the Committee needed to commence consideration of a product, in the form of guidelines or best practices. On the issue of procedural gaps, it would be useful to ask the Committee on the Elimination of Racial Discrimination about how to close the procedural gaps and for an updated report on that issue.

43. The representative of Pakistan, on behalf of OIC, supported discussion of the topic proposed by South Africa on the protection of migrants against racist, discriminatory and xenophobic practices, as well as an updated study on procedural gaps from the Committee on the Elimination of Racial Discrimination, since a long period had elapsed since it was written in 2007 and new developments had taken place. The Ad Hoc Committee should be very precise in its request in order for the Committee on the Elimination of Racial Discrimination to present concrete elements or proposals, and information on how to overcome those procedural gaps. South Africa welcomed the developing openness in formulating complementary standards. However, identifying only one issue or topic for elaboration was not a correct approach and not in keeping with the mandate of the Ad Hoc Committee. While recognizing that racism and sport is an important issue, all relevant

issues and aspects of racial discrimination should be considered comprehensively, not only in the sphere of sport, but including hate speech, incitement to hatred or discrimination people face because of their race, religion, national origin, etc.

44. The Chair-Rapporteur stressed that the space should be left for States to submit proposals to all, even during the intersessional period. With regard to the product or outcome, specific proposals were made that should be discussed by the Committee. The Chair-Rapporteur adjourned the meeting in order for regional coordinators and other interested delegations to meet informally and make progress on the various issues.

J. General discussion and exchange of views, 14th meeting

45. At its 14th meeting, on 22 July, the Ad Hoc Committee held a general discussion and exchange of views. The Chair-Rapporteur gave a summary of his ideas and proposals emanating from the seventh session thus far, for the consideration of the Committee. He summarized some relevant issues that had been considered in the room, largely on the basis of the presentations of the various experts who had engaged with the seventh session of the Committee. The topics addressed were according to the agenda and programme of work, adopted by the Ad Hoc Committee at its 1st meeting on 13 July.

46. The representative of the European Union enquired about the expected value of requesting the Committee on the Elimination of Racial Discrimination to provide the Ad Hoc Committee with an updated study. She asked whether a different set of outcomes would be anticipated in doing so or whether, in fact, the same result would be received. She also enquired about the programme budget implications and resource implications of requesting an updated study from the Committee on the Elimination of Racial Discrimination.

47. The representative of the United States requested to see the draft of the Chair-Rapporteur's remarks in writing. While some of the information in the Chair-Rapporteur's remarks on racism and sport were interesting, no conclusions should be made about the form of any outcome at this stage. For example, guiding principles on sport might not be as worthwhile as best practices. He reiterated that complementary standards prepared by the Ad Hoc Committee did not need to take the form of a binding treaty or protocol, which might attract only a small number of States parties.

48. The Chair-Rapporteur stated that his remarks were not comprehensive and that his speaking notes were not intended for circulation. He had merely collected ideas and points raised over the previous 13 meetings of the seventh session with the intention of eliciting discussion. He added that his remarks were personal and for the guidance of the Ad Hoc Committee, but that it was up to the Committee to negotiate and produce an actual product or even to reject all the points he made in his remarks, if it chose to do so. As regards requesting that the Committee on the Elimination of Racial Discrimination produce an updated study, the Chair-Rapporteur replied that it was really an initiative to find out what the Committee had done regarding the elements contained in its 2007 study (A/HRC/4/WG.3/7), noting that the expert of the Committee had also said that no progress had been made by it on the study. It was the duty of the Ad Hoc Committee to enquire about and get the most up-to-date information on the study. He added that it was up to the Committee on the Elimination of Racial Discrimination to determine how it would reply once a request came from the Ad Hoc Committee. On the question of programme budget implications and resource implications, it was also up to the Committee on the Elimination of Racial Discrimination to respond.

49. Brazil thanked the Chair-Rapporteur for his remarks and stated that it was a sound basis upon which to go forward. The representative requested a copy of the Chair-

Rapporteur's remarks in order to specifically react and propose additional language. She added that racism and sport could be an area where the Ad Hoc Committee could make a very significant contribution.

50. The representative of South Africa stated that its delegation and the African Group were clear about the fact that the ultimate complementary standard must be a protocol and that it must be binding.

51. The representative of Pakistan, on behalf of OIC, thanked the Chair-Rapporteur for the snapshot of the discussion that had been taking place, including the interesting proposals made by the experts. Pakistan, on behalf of OIC, supported the idea of guidelines but did not understand the basis for objections to an optional protocol, given that Members States were not obligated to sign. It was difficult to reconcile how, after 50 years, the International Convention on the Elimination of All Forms of Racial Discrimination was able to encapsulate all new developments. An optional protocol that broadly outlined to State parties the elaboration of specific plans on racism and sport would be a welcome development. Treaty bodies should encourage tangible changes on the ground for victims of racial discrimination. She suggested that, from the list of topics, that of advocacy and incitement to racial, ethnic, national and religious hatred and that of hate crimes be proposed for discussion by the Ad Hoc Committee at its eighth session.

52. The representative of Cuba recalled that it has always supported the elaboration of complementary standards on issues related to the Convention. The various positions to impede the Ad Hoc Committee from elaborating a binding standard were unfortunate, given its clear and urgent mandate. A document including all of the recommendations that had been put forward by the experts could serve as a basis for action plans and guiding principles. Cuba aligned itself with the statement made by South Africa and by Pakistan on behalf of OIC. It supported the topic of racism and sport and other topics, noting that the broad list of topics would continue to be discussed.

53. The representative of Mexico noted that there were barriers and gaps to be overcome and the question was, in fact, whether what was already in place could be improved. Mexico would not oppose guidelines on racism and sport, but further discussion was needed on many other issues.

54. The representative of the Bolivarian Republic of Venezuela pointed out that, taking into consideration the comments that had been made by the experts in the field during the session, it was clear, in his delegation's view, that there were procedural gaps for combating racism, racial discrimination, xenophobia and related intolerance, and substantive gaps, which, if covered, would assist the Committee on the Elimination of Racial Discrimination in achieving its objectives. Some of the existing mechanisms required modification, others simply needed to be strengthened for effective implementation, and those that had yet to be created were evidenced by economic, social, cultural, civil and political realities, and the suffering of countless vulnerable groups.

55. For those reasons, according to his delegation, it is necessary to insist on compliance with the mandate of the Ad Hoc Committee, through the strengthening of the Committee on the Elimination of Racial Discrimination and by developing complementary standards, which is becoming increasingly urgent. The international community should progress steadily towards the eradication of all discriminatory practices, and the content of the new international instrument should be developed for that purpose, with the support of his delegation.

56. Finally, the representative stated that the Bolivarian Republic of Venezuela, in compliance with the provisions of its Constitution, which enshrines the fundamental basis for the establishment of a multi-ethnic and multicultural society and equal opportunities without discrimination or subordination, has implemented the Law Against Racial

Discrimination, enacted in 2011, which establishes mechanisms to prevent, address and sanction racial discrimination in all its manifestations, as an offence. The law, developed with research experts, professionals and scholars in social sciences and law, and in close consultation with the Venezuelan people, includes in its article 10 definitions of racial discrimination, ethnicity, national origin, phenotype, vulnerable groups, cultural diversity, racism and xenophobia and "*endorracismo*", the text of which the representative offered to provide to those interested.

57. The representative of Pakistan, on behalf of OIC, made a specific proposal for a discussion on possible elements to an additional protocol to the Convention in accordance with Human Rights Council resolutions 6/21 and 10/30 and Council decision 3/103.

58. The representative of Japan requested a copy of the Chair-Rapporteur's remarks and supported work on guidelines on racism and sport. She noted the importance of avoiding duplication with the Committee on the Elimination of Racial Discrimination and of complementing its work.

59. The representative of the United States stated that his Government was not prepared to discuss a legally binding instrument and that the reference to an optional protocol as the complementary standard to be developed by the Ad Hoc Committee came from an early Council resolution but had not been referred to in more recent resolutions. He added that updating the guidance of the Committee on the Elimination of Racial Discrimination would not be the best use of the Ad Hoc Committee's resources. With respect to the proposal to consider the topic of "racial, ethnic, national and religious hatred", his delegation could not support this proposal since the topic was contentious. He noted that the topic was addressed elsewhere, including in the Istanbul Process for Combating Intolerance, Discrimination and Incitement to Hatred and/or Violence on the Basis of Religion or Belief, and in the Rabat Plan of Action on the prohibition of advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence, and it was exceedingly difficult to find consensus on the issue. His delegation would also oppose inclusion of the topic of racial and xenophobic acts committed through information and communications technologies in the agenda of the next session. The United States could support a discussion on racism and sport, and on multiple forms of discrimination.

60. The representative of South Africa stated that it would support the Ad Hoc Committee's work on the topic of racial and xenophobic acts committed through information and communications technologies and that it was interested in taking the topic forward. Following the presentation made by the experts from the European Commission, in which they highlighted that the European Union had carried out a lot of work in this area, it would be interesting for the Committee to discuss. The delegate also proposed the topics of the protection of migrants against racist, discriminatory and xenophobic practices, and racial, ethnic and religious profiling, and stated that South Africa would support Pakistan, on behalf of OIC, on the topics of advocacy and incitement to racial, ethnic, national and religious hatred, and hate crimes.

61. The representative of Algeria, on behalf of the African Group, insisted on the respect for the mandate of the Ad Hoc Committee as set out in Human Rights Council decision 3/103 and recalled in its resolutions 6/21 and 10/30. The representative urged the Committee to arrive at a concrete outcome by the end of the seventh session.

62. The representative of the European Union reiterated that the Union was not in favour of new standards but rather the more effective use and optimization of the existing Convention procedure.

63. The representative of Pakistan, on behalf of OIC, proposed the following topics from the previous list of topics of the Ad Hoc Committee: racial, ethnic and religious profiling and measures to combat terrorism; and racism in modern information and

communication technologies (racial cybercrime). He supported the proposal by the African Group of the following topics: protection of migrants against racist, discriminatory and xenophobic practices; and protection of people under foreign occupation from racist and discriminatory practices. He stated that the Ad Hoc Committee was the best place to discuss those difficult issues and arrive at a conclusion. In view of the eighth session, the representative requested from the secretariat a compilation of the proposals that had been made by delegations.

64. The representative of Brazil looked forward to further discussions and noted that it was not the case that every issue needed to be dealt with by an optional protocol, for example, racism and sport. She added that, with respect to migrants, the International Convention on the Protection of the Rights of All Migrant Workers and their Families already existed, and that it was difficult to see the value of having another instrument in this regard.

65. The Chair-Rapporteur reiterated and quoted Human Rights Council resolution 6/21, in which the Council recalled the mandate of the Ad Hoc Committee to "elaborate, as a matter of priority and necessity, complementary standards in the form of either a convention or additional protocol(s) to the International Convention on the Elimination of All Forms of Racial Discrimination, filling the existing gaps in the Convention, and also providing new normative standards aimed at combating all forms of contemporary racism, including incitement to racial and religious hatred". He also reiterated the voting list of those Members States that were in favour, those that had voted against and those that had abstained from the resolution.

66. He stated that consensus decisions were a hallmark of democratic processes and that those States that had voted against but were unsuccessful did not have a permanent veto on the work and progress of those States that had supported the mandate of the Ad Hoc Committee. He informed the Committee that he was prepared to return to the Council and report that countries were hampering the progress of the Committee and that, as Chair-Rapporteur, he was facing difficulties in implementing the decisions of the Council. He mentioned that there was a moral responsibility not to act against the mandate given by the Council. He stated that there was a possibility to request another mandate from the Council, which would likely result in another successful vote. He questioned how many years or decades would be needed before action was taken on the mandate of the Committee and invited a formula from delegations on how to proceed.

67. The representative of Tunisia aligned his delegation with the statements of Pakistan on behalf of OIC, and Algeria on behalf of the African Group, and stated that his delegation shared all the arguments put forward by the Chair-Rapporteur. He stated that the mandate of the Ad Hoc Committee was sufficiently clear and that it was not necessary to go back to the Council. He added that the need for consensus on every issue often led to deadlock. The Committee was duly mandated by the Council and only needed to fulfil its mandate.

68. The representative of Pakistan, on behalf of OIC, expressed her full endorsement of the statement made by the Chair-Rapporteur that the delay in the work of the Committee could no longer be ignored and that valuable resources had been spent on the seventh session. As regards the way forward, a new mandate could be required once the Committee reached the drafting stage; at the present time, no new Council mandate was needed. She requested that all views and positions expressed by delegations be included in the report of the seventh session.

69. The representative of South Africa recalled that no international convention had ever attained universal ratification, including the Convention the Rights of the Child. Even with respect to the rights of the child, there was no consensus. She stated that a need for

consensus could not be used to stop progress. Finally, the representative recalled that Council decision 3/103 made no reference to guidelines or plan of actions.

K. General discussion and exchange of views, 15th meeting

70. At the 15th meeting, the Ad Hoc Committee held another general discussion and exchange of views. The Chair-Rapporteur recalled the need to consider what was to be done with the list of new topics and distributed as requested a document containing proposals for topics to be considered from the general discussions at the 13th and 14th meetings of the seventh session of the Ad Hoc Committee. The document was a compilation of the topics that had been proposed by the delegations the previous day. He noted the need to identify the topics of priority interest in order to conclude discussion and move forward. In the interest of time management, he suggested that two topics could be selected for discussion at the eighth session. He also suggested that, at that session, the Ad Hoc Committee consider limiting its future sessions to seven working days, without prejudice to those future sessions, and that the Committee could make such a recommendation to the Council.

71. The representative of South Africa stated that the African Group was not in a position to agree to any proposal to reduce the duration of future sessions of the Ad Hoc Committee to seven days, and it would need to consult with the Group. In addition, the Committee did not have the mandate to decide the length of the session as that was the jurisdiction of the Human Rights Council.

72. The representative of the European Union stated that it had consulted with its members and requested the addition of the following three topics: "human rights education"; "implementation of existing norms and standards"; and "monitoring procedures of the Committee on the Elimination of Racial Discrimination and other mechanisms". It supported the topic of racism and sport and could lend its support to the proposal to discuss the topic of multiple forms of discrimination.

73. The representative of the United States supported and endorsed the Chair-Rapporteur's proposal to reduce the number of working days of future sessions the Ad Hoc Committee. He stated that the United States planned to continue to participate in forthcoming sessions. With respect to the new topics proposed by the European Union, he said his delegation was likely to support that of "human rights education" and had no immediate concern with respect to the other topics. The representative reiterated the previous position of his Government regarding the mandate of the Committee: that the mandate originated from paragraph 199 of the Durban Declaration and Programme of Action, which did not state that complementary standards must take the form of a legally binding instrument, such as an optional protocol to the Convention. He recalled that the resolutions or decisions of the Council concerning the Ad Hoc Committee between 2006 and 2009 were voted texts and, in his delegation's view, diverged from language used in the Durban Declaration and Programme of Action, but that the Council resolutions on the Ad Hoc Committee between 2010 and 2012 (i.e., resolutions 13/18 and 21/30) instead used the Durban Declaration and Programme of Action mandate language, and had been adopted by consensus. His delegation, while recognizing different statements by other delegations on the mandate of the Committee, believed that the most important statements thereon were those that had been most recently made by the Council, as they had been adopted by consensus and relied on the mandate of the Durban Declaration and Programme of Action without changing it. The United States believed that complementary standards could take a non-binding form such as guidelines, principles or action plans.

74. The representative of Brazil could support the European Union proposals, particularly since "human rights education" had been proposed in 2013 by a number of

States from across regions, including Brazil. She stated that only two or three topics should be chosen for discussion at the eighth session. With respect to the meeting time of the Ad Hoc Committee, a reduction to seven meeting days could still be supplemented by informal meetings on the three other days.

75. The representative of Belgium reiterated that, for his delegation, treaty bodies were the heart of the human rights protection framework. He recalled paragraph 9 of the 2007 study of the Committee on the Elimination of Racial Discrimination (A/HRC/4/WG.3/7), in which it emphasized that non-reporting by States parties was an obstacle to the universal implementation of the Convention and the Committee's work. He noted that these were important elements that should be dealt with as a matter of priority and proposed the topics of "implementation of norms and standards" and "monitoring procedures of the Committee and other mechanisms". The representative of Belgium aligned his delegation with the earlier statement of the European Union. He noted that the topic of "racism and sport" as considered by the Committee during the seventh session was a good start but required further expansion and consideration in future sessions.

76. The Chair-Rapporteur suggested that the delegations undertake informal consultations on possible outcomes and conclusions of the seventh session. The meeting was adjourned until the following day.

IV. Adoption of the report

77. The Chair-Rapporteur opened the 16th meeting on the morning of 24 July. The meeting was adjourned to allow the Committee additional time to continue its informal discussions, with a view to arriving at agreement.

78. The meeting was resumed later that afternoon. The Chair-Rapporteur invited general statements from the participants.

79. The representative of the United States expressed appreciation to the Chair-Rapporteur and all members of the Ad Hoc Committee, noting that the topic of the Committee was very important. It was important to his delegation that it continue in a useful, relevant and productive way in the future, and stated that it would work with all delegations to ensure that this would happen.

80. The European Union representative also expressed appreciation to all, especially to the representative of Brazil for chairing the informal sessions, stating that her delegation looked forward to future active engagement in the Ad Hoc Committee.

81. South Africa, on behalf of the African Group, also expressed thanks to all, noting the session had been difficult but cordial, and stating that the Committee had managed to find some points of convergence. She regretted, however, that the Committee did not use the opportunity of the session to discuss topical issues, such as the protection of migrants against racist, discriminatory and xenophobic practices, as had been raised by some members of the African Group during the session.

82. The representative of Pakistan, on behalf of OIC, expressed sincere appreciation, stating that, while the Committee had managed to arrive at a few conclusions and agreement on at least one topic, OIC regretted that the Committee had not been able to focus on its mandate during the session. The representative said that the Committee was far from discussions on tangible complementary standards in the form of an additional protocol, adding that some still opposed the mandate of the Committee and blocked consensus, and stating that OIC welcomed a more constructive approach in future sessions.

83. The representative of Brazil thanked the Chair-Rapporteur for his leadership and guidance, and thanked colleagues for their constructiveness and flexibility. She stated that good progress had been made on the issues of racism and sport and that the Committee felt the need to continue to make progress on the issue of procedural gaps at the next session. The additional future topic on reparation would provide the Committee with the opportunity to discuss and consider the issue of complementary standards.

84. The representative of Cuba expressed her support for the Ad Hoc Committee and its mandate, stating that she hoped that, in the near future, it would move toward a true binding document to address existing gaps.

85. The representative of the Bolivarian Republic of Venezuela reiterated its full support for the mandate of the Ad Hoc Committee, regretted that obstacles continued to be placed in the path of the work of the Ad Hoc Committee, and expressed his delegation's hope that the international community would work to combat all new forms of racism, racial discrimination, xenophobia and related intolerance.

86. The representative of the United States took the floor to clarify that, while earlier resolutions concerning the Ad Hoc Committee had been decided by a vote, the last two resolutions of the Human Rights Council (at its thirteenth and twenty-first sessions) had not been opposed and had been adopted by consensus.

87. The Chair-Rapporteur made a personal statement in which he thanked the representatives to the Ad Hoc Committee for their participation and constructive approach during the session. The essential and original mandate of the Ad Hoc Committee reached democratically by the Human Rights Council in its decision 3/103 and recalled in its resolutions 6/21 and 10/30 could not be ignored. He recognized that there had been differences; however, he asked what then was to be done in a multilateral forum where some opposed the mandate and prevented its discharge. He noted it was a complex issue and that it was posing difficulties in moving forward. He pointed out that the situation had been reached where the multilateral system was not being used for what it was intended — that States negotiated together and those that did not agree at least did not hinder the proposals of others and allowed their refinement. He stated that this was the case in the Ad Hoc Committee, and that these kinds of discussions had yet to take place.

88. He stated that the Ad Hoc Committee had discussed procedural and substantive gaps and that they needed to be addressed. He mentioned that all the presentations had confirmed that national mechanisms, overall, were not working effectively. He reiterated the issue of the need to exhaust available national remedies, but that this had highlighted gaps and limitations as victims required financial resources to seek redress, which limited their capacity. This was particularly highlighted in the condition of minorities and migrants.

89. The Chair-Rapporteur invited all participants to address directly to him informal written inputs on elements for a possible instrument and any appropriate text for consideration to fill gaps. He stated that he was open to receiving such informal inputs and inputs on any other related subjects in order to prepare adequately for the eighth session of the Ad Hoc Committee.

90. He continued that the adoption of the first decision concerning the Ad Hoc Committee had brought hope to victims of human rights violations, who wanted nothing more than the protection of their dignity as human beings. He stated that, looking at the work of the Committee over the past eight years, it could not be said strongly or proudly that much had been achieved to improve the lot of victims, even though there were potential powers and opportunities to do so through this forum. He also stated that the overall picture was that issues had been circled repeatedly and that positions of Governments and groups held since the establishment of the Ad Hoc Committee had been reiterated and remained. There had been no movement in any direction, which diminished

the potential of the Committee to take meaningful measures consistent with its mandate to improve the lives of victims. He further stated that he viewed it as an abdication of the collective responsibility and a failure of all to work together and make a contribution. He urged the members of the Ad Hoc Committee to work together and keep in mind the big picture in the coming sessions.

91. At the resumed 16th meeting, and resulting from the informal discussions, the Ad Hoc Committee agreed that the following recommendations, outcomes and list of topics would be discussed at the eighth session of the Committee:

(a) Recommendations and outcomes:

(i) The Committee recommends that the questionnaire be recirculated to all States, that those who have not responded be encouraged do so and that those who have responded provide updates;

(ii) The Committee decides to continue its discussion on the issue of racism and sport and reaffirms the related conclusions adopted at its sixth session;

(iii) The Committee recommends that the Committee on the Elimination of Racial Discrimination update, either in the form of an addendum or a new report, its 2007 report on complementary international standards (A/HRC/4/WG.3/7).

(b) List of topics:

(i) The Ad Hoc Committee recommends that the Committee on the Elimination of Racial Discrimination further elaborate its views on key elements with regard to procedural gaps and best ways to address them, in follow-up to the 2007 study and the different presentations given and proposals made to the Ad Hoc Committee in accordance with its mandate;

(c) Racism and sport:

(i) The Ad Hoc Committee will discuss effective and adequate remedies and the right to seek from competent national tribunals and other national institutions just and adequate reparation and satisfaction for victims, consistent with article 6 of the Convention and paragraph 165 of the Durban Declaration and Programme of Action.

92. Also at the meeting, the report of the seventh session was adopted *ad referendum*, with the understanding that delegations would send any technical corrections to their interventions in writing to the secretariat by 7 August 2015.

Annex I

Summaries of the expert presentations and initial discussions on the agenda topics

A. Assessment of the use of the complaint mechanism under article 14

1. On 13 July, at the 2nd meeting of the Ad Hoc Committee, Marc Bossuyt, Member of the CERD, gave a presentation on the assessment of the use of the complaint mechanism under Article 14 of the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD). He noted that the ICERD adopted on 21 December 1965, was the first human rights treaty adopted in the framework of the United Nations providing for a mechanism of international supervision. At present, 177 States are parties to that Convention.

2. The ICERD set up the Committee on the Elimination of Racial Discrimination (CERD) , composed of 18 independent experts, which is competent to receive periodic reports, to be submitted biannually by the States parties (Article 9), and inter-State communications (Article 11).[2] The CERD is also the first UN human rights committee which has been empowered, by Article 14 of the ICERD, to receive individual communications against States parties having made a specific declaration to that effect.

3. Mr. Bossuyt discussed individual communications before the ICERD. He explained that article 14 of the ICERD provides for an optional declaration by which the States parties may recognize the competence of the Committee to receive and consider communications from individuals or groups of individuals within their jurisdiction claiming to be victims of a violation by that State party of any of the rights set forth in that Convention. At present, 57 States have made that declaration. 22 belonging to the Group of Western European and Other States, 16 to the Group of Eastern European States, 11 to the Group of Latin-American and Caribbean States, 5 to the Group of African States and 3 to the Group of Asian States. To date, only 48 communications submitted under Article 14 of the ICERD led to a decision by the CERD. According to Article 14, section 7(b), of the ICERD, the CERD will forward "suggestions and recommendations, if any, to the State Party concerned and to the petitioner." The communications which have led to such "suggestions and recommendations" by the CERD were directed against (only) 12 of the 57 States parties to the ICERD having recognized the competence of the Committee to consider individual communications.

4. He noted that article of the ICERD which has most frequently been found to be violated is Article 6 ("effective protection and remedies [...] against any acts of racial discrimination which violate his human rights and fundamental freedoms contrary to this Convention") in 11 decisions, followed by Article 2 ("to pursue [...] a policy of eliminating racial discrimination)" in 8 decisions, Article 5 ("to guarantee the right of everyone [...] to equality before the law, notably in the enjoyment of [...] the right to freedom of movement and residence [(d), (i), ...], the right to work [(e), (i), ...], the right to housing [(e), (iii), ...], the right to education and training [(e), (v), ... or] the right of access to any place or service [(f)]") in 6 decisions and Article 4 (condemnation of "all propaganda and all organizations

[2] Up to now, no inter-State communication has ever been submitted to the CERD, nor to any other UN human rights committee.

which are based on ideas or theories of superiority of one race or group of persons of one colour or ethnic origin") in 6 decisions.

5. Mr. Bossuyt stated that article 14 has been characterized by one prominent professor Theo Van Boven, as "one of the most under-utilized provisions of ICERD." Professor Van Boven provided two explanations for Article 14's under-utilization: (1) "many states have always considered ICERD more a (foreign) policy instrument than a domestic rights document," and, (2) "the sheer lack of knowledge and information about the existence of article 14 as a possible recourse is a major impediment." Mr. Bossuyt explained that the most striking feature of the individual communications submitted to the CERD is the foreign origin of the authors of those communications. However, only in a minority of cases (18), the author of the communication had a foreign nationality. In the majority of the cases, the authors were nationals of the State party.

6. Mr. Bossuyt described the follow up procedure on individual communications. Following the example of the Human Rights Committee, a procedure on follow-up to communications was formally established on 15 August 2005, when the Committee created the ability for Special Rapporteurs to follow-up on the Committee's suggestions and recommendations to States parties following a communication to CERD (rule 95 of the CERD Rules of Procedure). Since 2006, the Committee included a chapter on follow-up to individual communications, including sometimes in an annex, a table showing a complete picture of follow-up replies from States parties in relation to cases in which the Committee found violations of the Convention or provided suggestions or recommendations in cases of non-violation. With respect to the 10 individual communications in which the committee did not find a violation of the Convention, the Committee nevertheless made recommendations.

7. Mr. Bossuyt stated that Governments concerned are generally forthcoming in disseminating the opinion of the Committee. In some cases, they also took measures to amend the applicable legal provisions. In a few cases, they accepted to award compensation to the authors for the expenses they had made for legal assistance in submitting the communications. Up to now, no State party accepted to award any compensation for pecuniary or non-pecuniary damage.

8. He concluded by stating that in 2012, the CERD, acting upon a recommendation from its Working group on communications, proposed the creation of a joint treaty body working group on communications, composed of experts of different treaty bodies to ensure consistency of jurisprudence among treaty bodies and reinforce the justiciability and interdependence of all human rights. It would lead to more coherent outputs and to better aligned working approaches of all treaty bodies dealing with communications. Mr. Bossuyt stated that in its resolution 68/268 entitled "Strengthening and enhancing the effective functioning of the human rights treaty body system" adopted on 9 April 2014, the UN General Assembly did not act upon that recommendation.

9. The representative of Pakistan on behalf of the OIC noted that since only 48 decisions had been issued by the CERD the effectiveness of the procedure should be questioned and asked how the procedure could be strengthened to ensure complaints could be received. The representative also invited Mr. Bossuyt's views on the inquiry procedure as compared to the complaints procedure.

10. The representative of Cuba expressed appreciation for Mr. Bossuyt's comparative analysis and asked about recommendations to enhance its effectiveness.

11. Mr. Bossuyt noted that indeed, the number of decisions under the individual complaints procedure was small. The effectiveness of the procedure however was not related to the structure of the Convention. There were in general three distinct ways to legislate individual complaint mechanisms: integration of the article into the Convention at

its inception; an optional protocol adopted at the same time as the Convention itself; and an optional protocol adopted at a later stage. He recalled that the timing of these three decisions had no bearing on the effectiveness of the procedure, and that it was ultimately an optional and not mandatory procedure. The expert also pointed to the fact that to date, no inter-State communication has ever been submitted to the CERD, or to any other UN human rights committee. Inter-State communications were a mandatory procedure in CERD, and yet no complaints had been received from States. He explained that this pointed to the fact that structural and timing aspects of article 14 individual complaints procedure did not have an effect on its effectiveness. He advised that greater awareness be created about the existence of the procedure.

12. In response to the question about his views on the inquiry procedure, he noted that the introduction of such procedure was a standard request of the CERD. He added that in his view, it was more important that States parties submit their reports to the CERD, as so many were very late or had never submitted a report to the Committee.

13. The representative of Belgium said that implementation was key to the effectiveness of ICERD and that States parties should report better and in due time. Belgium also noted that Mr. Bossuyt's presentation indicated that the acceptance of Article 14 was geographically unequally distributed amongst regions and the representative inquired whether this could be improved. The expert agreed that the acceptance of article 14 by Member States was unequal, noting the high number of WEOG Member States parties, as compared to other regions. There were no acceptances in the Caribbean region at all and a very limited number in the African and Asian region. However, he was unable to provide a reason as to why that was the case, stating the States parties were better placed to do so.

14. Asked about regional mechanisms by the Belgian representative, the expert said that in his view those mechanisms were well developed in Europe, and also in Latin America. There was also an African human rights mechanism; however, there was no functioning regional mechanism in Asia.

15. The representative of the United States inquired about Mr. Bossuyt's reference that the ICERD was considered more than a foreign policy instrument than a human rights document as well as the role of civil society and non-governmental organizations when it came to the effectiveness of CERD. Mr. Bossuyt noted that the role of civil society could not be overstated, as strong non-governmental organizations had a significant role to play in the individual complaints procedure and the implementation of the ICERD as illustrated by his case law analysis. He added that Governments often initially expressed firm commitment at the international level as a political expression, but did not always have a strong influence in the domestic legal system. The provisions of ICERD should however be integrated into domestic law. CERD regularly asked States if they have done so. One of the standard questions was therefore if a State had a comprehensive discrimination law against racial discrimination.

16. When asked about his opinion on the multitude of possible avenues for individual redress for violations of racial discrimination including the Human Rights Committee and the European Court of Human Rights, by the Chair-Rapporteur, the expert said that different institutions could indeed arrive at different decisions, which was the inherent danger of the current system. CERD consequently believed that the establishment of a single unified body that dealt with complaints to all treaty bodies would be an improvement.

17. The Chair-Rapporteur inquired about an analysis of type of cases that succeeded under the article 14 procedure. He stated that confidence in the process was not bolstered by the figures and statistics provided in Mr. Bossuyt's presentation, and underlined that a great deal was dependant on the national law and domestic systems in place. Mr. Bossuyt

expressed support for further research on these cases. He also questioned whether the results were really so "dismal", perhaps more so in relation to the approximately 60,000 cases considered by the European Court of Human Rights. He explained that of only a small percentage of cases were deemed admissible, and even a smaller percentage constituted a finding of a violation, that some of those cases, might in fact be very instructive to States to rectify potential problems in advance. The table in the Annex of his presentation was valuable as it at least provided an overview of individual communications under Article 14 of ICERD dealt with by CERD.

18. Regarding gaps in ICERD, Mr. Bossuyt noted the existence of gaps in institutional coverage and protections, as different bodies and institutions could arrive at different conclusions. Procedures, such as the reporting procedure could use further improvement.

19. The representative of Ghana inquired about the attempt of CERD to redefine "race", the views of the expert with regard to the definition and content of "ethnic cleansing"; and the fact that national institutions were often taking on individual complaints. He asked if the Committee had adopted general comments to address such issues, which were also of importance in relation to the right to protect, suggesting the need for a supplementary protocol. The expert noted that CERD had done so, and had adopted a number of general comments; CERD however, had not as yet issued a comment on ethnic cleansing. But CERD had issued general comments on discrimination against noncitizens, in particular migrants; on indigenous populations, on Roma people; on people of African descent, etc. This approach showed that CERD had no narrow view on race. He added that "race" as a biological concept did not exist, but that racists did exist. He continued that he was not convinced that there was a need for an additional protocol. It would, however, be welcomed if the "machinery" could be strengthened. Such approach would be more useful than enlarging the field of application.

20. The representative of South Africa asked whether there was a gap concerning issues of religion and about the process leading to the drafting of general recommendations, as these soft laws, including the United Nations Declaration on religion were not enforceable documents. Mr. Bossuyt stated that CERD considered at times the issue of religion in its work. Some States parties noted that CERD's mandate was racial discrimination and not discrimination based on religion or belief. That objection could ostensibly be overcome by a separate instrument, but the practical challenge of drafting it would be enormous.

B. Issues, challenges and best practices pertaining to reporting under the ICERD Convention

21. At the 3rd meeting, on 14 July, the Chair-Rapporteur recalled that the outcome of the 6th session of the Ad Hoc Committee in paragraph 97 (a)(iii) provided for a discussion on "issues, challenges and best practices pertaining to reporting under the Convention", and as had been agreed by the Coordinators of the Regional Groups, all States were invited to volunteer to brief the Ad Hoc Committee on their individual experiences in this regard under this agenda item during the 7th session.

22. At this meeting, Norway recognizing the continued need to fight all forms of ethnic, racial and religious discrimination, hate crimes and xenophobia, gave an overview of Norwegian issues, challenges and best practices pertaining to reporting under the ICERD Convention, touching upon some of the issues and challenges facing the country, as well as some practices it considered successful. In order to combat discrimination effectively, Norwegian authorities believed it is important to have reliable and updated information about the extent of discrimination against different groups. In February 2015, The Norwegian Institute for Social Research published a report, which reviews existing research

on discrimination among the indigenous Sami population, national minorities and immigrants and their descendants in contemporary Norway. The fight against hate crime and hate speech remains a top priority for Norway, and free and open participation in the public debate is important in a democratic society. The combat against hate speech and hate crime has among other measures led to an interministerial Action Plan against Radicalization and Violent Extremism (June 2014). The Plan underlined that prevention in a broad perspective involves ensuring good formative conditions for children and youth, fighting poverty and working to ensure that everyone, regardless of their background, shall have a sense of belonging and be protected against discrimination. The representative stated that the general preventative efforts in many different fields can also help prevent people from choosing violence as a means of achieving their ideological or religious goals. Measures to prevent discrimination, harassment and hate expressions on the Internet and to prevent hate rhetoric are also important.

23. The Norwegian Government supports the Norwegian campaign against hate speech, which is linked to the campaign of the Council of Europe with goals to: create contact between young volunteers working to promote human rights an respond to hate speech; train and provide tools for NGOs working in the field; work to increase knowledge in the general public and civil society on how to respond to online hate speech; and, implement European campaigns/action days in Norway; An example of a very concrete initiative to fight hate rhetoric, especially that aimed at vulnerable groups and individuals, is a project for schools under the European Wergeland Centre. It has been closely linked with the national campaign 'Stop hate speech on the Internet', which is a part of the Council of Europe's 'No Hate Speech' campaign.

24. Another example is DEMBRA (Democratic Readiness against anti-Semitism and Racism), a Norwegian three-year program (2013-2015) aimed at teachers in lower secondary schools funded by the Norwegian Ministry of Education and Science, and designed to prepare and enable young people to live as democratic citizens in diverse societies to prevent racism, anti-Semitism and other forms of discrimination. DEMBRA combines the expertise of all parties involved in a program where theory meets practice, reflection meets action and history meets the future.

25. The representative discussed hate crime, which are offences motivated by racism, xenophobia or homophobia committed against individuals or groups because of their personal or social identity. A special hate crime unit has been set up by the Oslo police. At the end of 2006 the Norwegian Police started registering all reported hate crimes and since 2007 (the first full year of statistics of reported hate crimes available), the National Police Directorate has made a manual analysis of all reported cases. The latest analysis (March 2015) shows small changes in the number of hate crimes reported for the last four years. Hate crimes due to racism are the most dominant followed by hate crimes regarding religion, at then sexual orientation.

26. The representative noted that threats, damage to property, violence or discrimination motivated by hate and prejudice is serious for the individual victim, but also creates fear in larger groups of the population. It is an important goal to increase awareness about hate crime within the police force, as well as to increase awareness and police confidence among targeted groups in the population. Under Norwegian law, hate crimes are considered an aggravating factor in sentencing if the criminal offence is motivated by any of the following criteria: religion or life stance, skin colour, national or ethnic origin, sexual orientation, reduced physical or psychological ability or other circumstances related to groups of people requiring a special level of protection. This is derived from Norwegian case law, and is also explicitly stated in the new Norwegian Criminal Code, which will enter into force in 2015.

27. The Chair-Rapporteur expressed appreciation to Norway for the interesting presentation and posed some follow-up questions concerning the recognition of Finnish

population of Norway as a minority group; further information about the experiences of Norway with regard to hate speech on the internet and hate crimes; and the text of laws and procedures to assist prosecutions; and lessons learned regarding the attacks in Utoya in 2011.

28. The Norwegian representative explained that the term "Finnish" did not refer to their nationality but rather to culture and language, and that while Finns had been settling in Norway for a long period of time and are Norwegian citizens, they did face discrimination.

29. The Norwegian representative noted that the focus was on prevention concerning hate speech on the Internet and that approach would be strengthened. Currently, hate speech on the internet, criminal monitoring by the police, digital monitoring by the police, education for children regarding online activities, and increased training for police trainees was taking place. It was also important to educate people, about hate crimes with the goal of easier reporting of hate crimes. The representative explained that following the terrorist attack at Utoya in 2011, Norwegian response was towards more openness as it decided not to become a "closed society" due to this attack. There was a year of national reflection and discussion and the legal process, triggered a national open discussion about the how this could have occurred.

30. The European Union inquired about the engagement of Norway with civil society during the CERD reporting process. While not completely aware of what had been done to reach to civil society during the CERD process, the representative stated that the UPR process played a prominent role in that regard and presented a good platform for discussion, and ultimately enriching the various treaty body discussions.

31. The United States also presented on its CERD reporting experience, sharing three best practises and three challenges during the 3rd meeting. One best practice was a broad interagency approach to reporting and presentation, under the leadership of the White House (Office of the President). Second, in addition to the federal government, state and local officials were included in the United States delegation. This approach was effective and appreciated by the Committee. Third, consultations with civil society are important part of treaty body presentations. These included a civil society consultation in Geneva the day before the presentation, with about 80 civil society representatives. This consultation enabled civil society to pose questions to the Government officials, and involved detailed and at times emotional exchanges which had improved the delegation's preparation.

32. The representative presented three challenges faced by the United States regarding CERD reporting. The first challenge is how to increase public awareness of the treaty body system and reporting process. He welcomed hearing about experiences from other delegations. Second, keeping reports within the strict page limits presented a challenge, while responding to numerous issues raised by the CERD. Third, during the actual CERD presentation the time management was not ideal, leaving the delegation limited time to respond and brief the CERD.

33. The representative also raised a point for discussion about how to strike a balance between the value of a large delegation and the limited speaking time. He explained that the United States delegation was fairly large, and was fairly representative of the country, as African-Americans, women, indigenous persons, persons with disabilities, LGBT persons and others have participated in treaty body presentations, and that broad spectrum of delegates' experiences improved the quality and the richness of the presentation. He particularly noted that its most recent delegation included the Mayor of Birmingham, Alabama William A. Bell, who experienced racial discrimination during the civil rights era, and Loretta Lynch, who shortly afterward became the Attorney General of the United States. He added as another best practice the willingness of the United States to acknowledge and discuss its past and its shortcomings.

34. Belgium inquired about the challenge of follow-up, and the implementation of CERD recommendations, to which the representative of the United States said that the same interagency process led by the White House that served the preparation of the session was also used for the implementation of the recommendations. He also noted the overlaps in the United Nations human rights reporting cycle, and agreed that the focus of the process must be on implementation and changing the situation on the ground. The Norwegian representative added that its various reports were on time and outlined a decentralized reporting process lead by the Ministry of Foreign Affairs. For Norway, the Universal Periodic Review process was beneficial to its CERD and other treaty body reporting preparation through awareness-raising and the collection of information. Belgium also inquired about the role of parliaments and parliamentarians in CERD reporting process. Given the separation of powers between Congress and the Executive Branch of government in the United States, there was no explicit role for parliamentarians. Nevertheless, the State Department has reported to Congress on the outcomes of the treaty body presentations and its related consultations with civil society. Norway replied as well that there was no participation by the Norwegian parliament in the treaty body preparations or the review.

35. The representative of South Africa asked the representatives of Norway and the United States of America if those national approaches had also resulted in more regular reporting and about how state and local members of the delegations were chosen.

36. The United States noted that its approach was generally successful, though not perfect, in improving and that White House involvement and leadership was very important to this success. He added that timelines were clearer and that preparations commenced well in advance of reviews. Addressing the question on the selection of delegates, the representative noted that the United States considered inter alia current issues as well as areas of interest raised by the Committee.

37. At its 6th meeting, on 15 July, the Ad Hoc Committee continued its consideration of item 5 of the programme of work on "Issues, challenges and best practices pertaining to reporting under the Convention". At this meeting, the Deputy Permanent Representative of South Africa presented a briefing to the Committee in view of South Africa's experience. As South Africa was a microcosm of the world, racism still existed in South Africa and it would take strong mobilisation and a programme of "de-racialisation" of society to eradicate racism. She also noted that South Africa had made great strides in dismantling the structures that had legalised racial discrimination. The Government continued to allocate substantial resources towards the creation of a non-racist State. All legislation that provided for racial discrimination had been repealed and new statutes had been adopted to provide a framework for racial equality, and elaborated on the legal framework that ensured equal treatment in South Africa.

38. The Deputy Permanent Representative noted that several avenues existed in South Africa through which one could claim redress for acts of racial discrimination. Equality Courts were designed to deal with any complaint alleging unfair discrimination, publication of information that unfairly discriminates, harassment and hate speech. Aside from the Equality Courts, one could also bring a claim to the South African Human Rights Commission. Non-state actors had also shown their willingness to assist in the enforcement of rights. An example was Lawyers for Human Rights, a non-governmental organization, which offered legal assistence in South Africa.

39. Article 4 of ICERD required that States Parties criminalize racism and social discrimination. In South Africa the prohibition of racial hatred was based on the Constitution, although the Constitution also guaranteed freedom of expression, the formulation made it clear that incitement that could because harm was excluded from the ambit of this right.

40. The Deputy Permanent Representative noted that, subsequent to the 2001 World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance held in Durban, the South African Government approved the establishment of the National Forum against Racism (NFAR) in 2003, which was comprised of various stakeholders, including national and provincial government and civil society organisations.

41. Describing challenges the Deputy Permanent Representative turned to migration and noted that South Africa remained the preferred destination for migrants and faced a host of migration-related challenges. South Africa had long and porous borders which exacerbated those challenges. Recent attacks against foreigners were referred by some as xenophobic. The attacks had been condemned by government. The government was determined to restore and maintain order within communities. Operation Fiela — Reclaim was an operation to rid the country of illegal weapons, drug trafficking, prostitution rings and other illegal activities.

42. The Deputy Permanent Representative stated that the mandate of the Ad Hoc Committee was clear, and that it was expected that progress be made during the current session. The Human Rights Council had given a clear mandate to elaborate complementary standards, and if the Ad Hoc Committee failed, it would be failing the plight of all the victims of racism.

43. The representative of Cuba reaffirmed its commitment to fight all forms of racism and xenophobia. The representative expressed extreme concern about racial discrimination and xenophobia in countries of the North in particular, in view of anti-migrant sentiment, xenophobic reactions and sophisticated contemporary forms of racial discrimination. Political will was required to eliminate these problems. The Ad Hoc Committee had a clear mandate to elaborate complementary standards to the existing legal framework, which Cuba supported. It was fundamental, the delegate stated, that that the Committee ensured that there was no loss of dignity for victims and that it take up the relevant topics related to these various problems. Cuba supported South Africa's briefing and reiterated that the mandate of the Ad Hoc Committee had to be respected and that the Committee move ahead in order to work properly.

44. During the 7th meeting, on 16 July, the Ambassador of Ecuador made a presentation on Ecuador's national issues, challenges and best practices related to ICERD. She stated that indigenous peoples, Afro-Ecuadorian and Montubio constitute 21% of the Ecuadorian population. Historically, they have been the most exploited, discriminated and excluded, due to historical colonial practices based on social classification in accordance with skin colour, language, worldview, religious beliefs, culture and forms of organization.

45. In this context, the government of Ecuador has taken up the challenge to consolidate and construct a society that is participatory, intercultural, plurinational, equal and inclusive for everyone living on its national territory.

46. Currently, there are adequate normative and programme measures, in accordance with the Constitution, enshrining the principles of full equality, inclusion, and non-discrimination. An example of the political will to make changes and revaluation is the Plurinational Plan for the Elimination of Racial Discrimination and Ethic and Cultural Exclusion 2009-2012.

47. Ecuador has various planning instruments to fight multidimensional poverty and inequalities, such as the Atlas of Inequalities. The idea is to use detailed information to improve and update public policies and implementation mechanisms, monitoring the situation of vulnerable groups. There are also five national agendas, focusing on inequalities and one of them is called National Agenda for Equality of Nationalities and Peoples, which like other national agendas, was developed through a bottom-up approach,

with the participation of National Councils for Equality. These councils were established through a law, which was adopted in May 2014.

48. On 16 July during the 8th meeting, the representative of Guatemala presented the national experiences of the country with regard to issues, challenges and best practices pertaining to reporting under the ICERD Convention. In 1982, Guatemala adopted ICERD and consequently approved a number of measures to implement the Convention. The representative said that one event stood out since the adoption. After 36 years of conflict, a peace agreement was signed in 1996, opening new possibilities such as the promotion of indigenous peoples' rights. Those rights have never been an impediment to progress, however were an integral part of the country's culture.

49. Guatemala created a presidential commission that furthered indigenous rights and an "Academy for Mayan languages" as well as other institutions that strengthen indigenous culture and rights. At the executive level a department for indigenous affairs was set up as well as a state policy to ensure the creation of a pluralistic state. Despite the progress, further actions needed to be undertaken including addressing the challenge of harmonizing national and international legislation. 112. Guatemala had now presented its 14th and 15th report to CERD and had been complying with the reporting commitment and had organised a national mechanism to follow up on recommendations. The mechanism involved a number of stakeholders such as business and civil society. Guatemala also found other mechanisms useful, such as the UPR review. Guatemala had much relied on OHCHR support in the past, as the Office was very active in the country. This contribution from the Office was much appreciated.

50. The Ambassador of Pakistan also briefed the Ad Hoc Committee on its national experiences with regard to issues, challenges and best practices pertaining to reporting under the ICERD Convention during the 8th meeting. Pakistan had presented its consolidated 15 to 20 periodic reports in 2009. The 21st report would be submitted shortly and would also be disseminated online. The report had been prepared with the involvement of a variety of stakeholders. He added that distinctions and groupings in Pakistan existed mainly on religious and linguistic grounds and that racial discrimination was nearly non-existent. However, due to terrorism ethnic and religious minorities might face discrimination. The country's legal framework guaranteed equality and there were several provisions prohibiting discrimination in the constitution. Pakistan briefed on the legal framework and also referred to the regulations for media and broadcasting companies which prohibited discrimination on a number of grounds.

51. Pakistan had also taken positive measures to support minorities and promote intercultural exchange, such as educational measures, awareness raising and special commemorative and religious festive days. The Ambassador stated that the judiciary was also concerned with upholding equality, and that the courts had handed down a number of judgements on hate speech. Decency, morality and Islam were cited as reasons to forbid speech. The Ambassador stated that media was also active in fighting discrimination and extremism, and the social media played an important role in promoting national harmony.

52. Pakistan was currently finalising an action plan for national minorities, which included a number of measures such as human rights education, and social safety nets as well as prohibitions on hate speech. Pakistan made endeavours to implement ICERD but faced a number of challenges so the biannual reporting timeframe could not be fulfilled. The periodicity of reporting should be reviewed. Pakistan also faced a challenge as it only reported to the CERD on the grounds of religious hatred, which was not fully appreciated by Committee. However, race, the Ambassador stated, did not exist in Pakistan. He continued that the scope of ICERD was too limited and therefore there should be an additional protocol to ICERD covering additional and contemporary forms of racism. The

Ambassador also mentioned that CERD took statements from non-governmental organizations at face value and that sometimes the Committee transcended its mandate.

53. The representative of Mexico also gave a briefing on the national experiences of the country with respect to issues, challenges and best practices pertaining to reporting under the ICERD Convention during this meeting. Mexico ratified ICERD in 1975 and in 2002 made the declaration concerning article 14 on individual communications. In 2011, Mexico presented to CERD, the Committee submitted its recommendations consequently. CERD emphasised interpretation services, rights of indigenous people and legal assistance in the case of Mexico. In 2012, a working group was established to follow-up on the CERD recommendations, comprised of fifteen government entities.

54. In September 2014, Mexico submitted a progress report, and the working group established a matrix on racism and the concomitant challenges in order to assist in addressing those challenges. The group also presented a work plan and a time table for its further work. In August 2014, another meeting would be held in cooperation with civil society on the implementation of the recommendations.

55. Issues, challenges and best practices pertaining to reporting under the ICERD Convention were also presented by the representative of Belgium during the 8th meeting. He stated that ICERD was important for Belgium, that enhancing equality remained a priority for the country, and that all victims should be afforded the same attention.

56. CERD recommendations had assisted Belgium in building the necessary institutions and policies to fight racism at the national level. Belgium had recently presented its 16th to 19th report to the Committee. The simplified reporting procedure would further focus the dialogue and it should be available to all State parties as soon as possible. One challenge for Belgium was the coherent follow up to over 400 CERD recommendations. Every six months, Belgium undertook a coordination exercise consolidating all recommendations, including those from regional mechanisms. The catalogue of recommendations was shared with civil society in order to increase transparency.

57. The representative stated that Belgium was not late with any of its treaty body reports and its the national mechanism ensured adequate follow up. The advantage of presenting a periodic report was that the country had an opportunity to evaluate its own situation. The national dialogue also allowed for the involvement of civil society. Belgium appreciated the dialogue with CERD as a valuable expert advice and a tool to improve national policies.

58. A number of challenges were highlighted including the complexity of the federal state structure, the sheer number of recommendations and reports that needed to be submitted; and the complexity of materials and legislation that addressed racism in a modern state. All those challenges were exacerbated by the administrative challenge of following up on all the recommendations. Belgium recommended an holistic approach as many recommendations, stemming from different Conventions, would often overlap. Clustering of recommendations, as had been earlier suggested by Mr. David, was a useful approach. The enhancing of capacities was also important, and a standing mechanism, with a clearly defined mandate, was useful in this regard. The standing mechanism should also assist in guiding the implementation of recommendations. The representative added that another good practice was to uphold transparency and always cooperate and consult with civil society. Finally, the representative of Belgium noted that awareness-raising was important.

59. Belgium presented the following conclusions: the timing of reports needed to be considered; implementation remained essential; there was a reporting deficit; and only a small number of countries had accepted the individual communications procedure under

article 14 — leading to a very partial view of the situation; and, regional mechanisms were often more advanced than the universal mechanism.

60. During its 12th meeting, on 21 July, the Ambassador of Ecuador gave a presentation on the agenda item "issues, challenges and best practices pertaining to reporting under the ICERD Convention" on behalf of CELAC. The Ambassador stated that sustainable development cannot be attained without the inclusion of groups in situations of vulnerability, such as, indigenous peoples and people of African descent, women, and older persons, persons with disabilities, migrants, children and adolescents. Equity, social and financial inclusion and access to fair credit are central to ensure overall access to justice, citizen participation, well-being and a dignified life for all. For CELAC the fight against poverty should be in full conformity with ICERD and other international instruments, particularly the Durban Declaration and Programme of Action and adopted laws and policies should not discriminate, the incitement of racial hatred should be criminalized, judicial remedies for acts of racial discrimination and public education to promote understanding and tolerance should be provided. Therefore, any future complementary international standards to strengthen and update international instruments against racism, racial discrimination, xenophobia and related intolerance in all their aspects, should guarantee full respect to democracy, the rule of law and human rights including the right to development and right to peace, in a model of sustainable development that places the person at the centre of public policies, and recognize the importance to promote plural, widespread and diverse full citizen participation.

61. CELAC Member States also consider that proper consideration should be given to measures against racial discrimination, in relation to the creation of opportunities of dignified and productive employment and decent work, the full implementation of the right to education, ensuring that no racial discrimination is applied with regard to access to education, in particular for people with special educational needs, migrants, indigenous peoples and people of African descent. Unfortunately, in several cases, racial discrimination and acts of xenophobia, incitement of racial hatred and intolerance, are associated with migration, reinforcing their situation of vulnerability. In this regard, CELAC recalled the duty of all States -of origin, transit and destination- to guarantee full respect of all human rights of migrants, irrespective of their migration status, including migration of children and adolescents, accompanied and non -accompanied and their higher interest to avoid exacerbating their vulnerabilities.

62. Finally, CELAC saluted the proclamation of the International Decade for People of African Descent, the CELAC Working Group meeting on people of African descent held in Brasilia in September 2014, the initiative of CARICOM to create the Reparations Commission of the Caribbean Community, including on the key areas of chronic diseases, education, cultural deprivation, psychological trauma and scientific and technological backwardness, as well as the World Conference of Indigenous peoples held 22-23 September 2014 in New York.

C. Presentation and discussion on the purpose of general recommendations by the CERD

63. At the 4th meeting, on 14 July, the Ad Hoc Committee heard a presentation and held a discussion on the purpose of general recommendations by the Committee on the Elimination of Racial Discrimination and the process leading to their issuance in the context of the effective implementation of the Convention, and any possible shortcomings.

64. Anastasia Crickley, Vice-Chair of the Committee on the Elimination of Racial Discrimination , presented on the purpose of the general recommendations made by the

CERD and the process leading to their issuance in the context of the effective implementation of the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD). Ms. Crickley provided an overview of the development of general recommendations and stated that the primary purpose of such recommendations were for a dynamic and current interpretation of the ICERD. She added that over time, the recommendations have sought to capture a number of issues including the complexity of intersectionality of gender and race and multiple forms of discrimination faced by women belonging to ethnic, indigenous or minority groups.

65. Ms. Crickley emphasized that the general recommendations were made to provide further guidance to and assist States parties in fulfilling their reporting obligations, and while concluding observations are tailored to each State party, general recommendations are made available to all States parties further facilitating the implementation of treaty provisions. She stated that since 1972 CERD had adopted 35 general recommendations. She further added that while the general recommendations are authoritative, they are not legally binding. About 20 of them are mainly focused on the interpretation of the ICERD provisions and their application. Seven general recommendations deal with specific groups at risk of racial discrimination. While others touch upon general but important issues, such as the two general recommendations on the World Conference against Racism and the Durban Review Conference. Other issues not mentioned in the ICERD were however taken up by the Committee through general recommendations, including those on self-identification, demographic composition of the population, and more recently, racist hate speech. Also, while specific and vulnerable groups subject to racial discrimination are not mentioned in the ICERD, the Committee observed that certain forms of racial discrimination were directed towards them, and decided throughout the years to adopt general recommendations to enhance their protection from racial discrimination. Thus far, the groups covered are refugees and displaced persons, indigenous peoples, Roma, non-citizens and People of African descent.

66. She emphasized in particular general recommendation No. 25 on gender-related dimensions of racial discrimination which highlights the intersectionality between gender and race and allows the Committee to draw the attention of States parties on potential or existing double/multiple discrimination faced by women belonging to ethnic, indigenous or minority general recommendations. The recent general recommendation No. 35 on combating racist hate speech is also fairly special as hate speech is not specifically mentioned in the ICERD but at the same time is covered by both articles 4, 5 and 7.

67. In describing the process leading to the issuance of general recommendations, Ms. Crickley stated that following a proposal by members of the CERD or by the bureau, the CERD Committee would appoint rapporteurs to coordinate the preparation and drafting of the general recommendations. A day of thematic discussion would then be held with State parties, NGOs, National Human Rights Institutions and interested individuals on the subject based on which the CERD Committee would then decide whether or not to issue a general recommendation. A general recommendation is also based on the assessment of periodic reports and comments, as well as information provided by stakeholders.

68. The representative of Ghana requested further elaboration on the shortcomings of the process by which general recommendations were issued. The representative of Brazil requested the speaker to provide information on substantive gaps to the ICERD and how that would relate to the general recommendations issued by the Committee.

69. The representative of Pakistan on behalf of OIC also requested further information on how the general recommendations filled the gaps that existed in the ICERD, and in terms of the process leading to the issuance of the general recommendation the representative wanted to know how much States were involved, and whether the inputs of Member States were taken on board. Given that there was no formal procedure, she queried

whether those States inputs were reflected in the final General Recommendations, noting that the General Recommendations were neither binding on States nor a legal commitment as they were not the outcome of an intergovernmental process. She added that States parties' views were sought but normally not reflected. She stated that issues such as xenophobia, hate speech, and the intersectionality of racial and religious discrimination as highlighted by the Special Rapporteur on Minorities and the Special Rapporteur on Contemporary Forms of Racial Discrimination were emerging issues and were resonant in the ICERD. She also asked whether the Convention is able to address these new dynamics, context and contemporary challenges including those highlighted in the Durban Declaration and Programme of Action and the Review Conference which reflected realities considerably changed since its adoption in 1965, and whether another legally binding instrument was required. Similarly, the representative of South Africa asked about the impact of the engagement between Ad Hoc Committee and ICERD in addressing the gaps which need to be filled.

70. The representative of the United Kingdom of Great Britain and Northern Ireland asked about the criteria and considerations used in deciding whether or not to proceed with a general recommendation following a thematic discussion by the CERD.

71. Ms. Crickley in response stated that the CERD Committee adopted flexibility in terms of taking on board the different views and that there have been times when the decision has been made not to proceed with any general recommendation after a thematic discussion, if many Member States would not find it helpful or if the timing did not appear conducive. She informed the participants that CERD would be bringing its comments procedure in line with the other treaty bodies in that Member States will be invited to comment prior to finalization, adding that indeed Committee does take notice of States comments although it was duty bound as a body to make independent expert decisions about the ICERD. In response to the issue of substantive gaps in ICERD, Ms. Crickley stated that the issue of gaps was dependent upon the political will and/or capacity of States Parties being able to fulfil their obligations under ICERD and address other challenges posed by contemporary forms of racism. While admitting that the context in which the ICERD was drafted had changed, she stated that definition of article 1 of the Convention can be interpreted in a way as fully cognizant in the current environment and indicated that CERD had produced three general recommendations on the subjects of non-citizens, hate speech and with regard to People of African descent to elaborate and shift language on issues which could be implied in the ICERD.

72. The Chair-Rapporteur asked Ms. Crickley whether all general recommendations are adopted by consensus and whether this had any bearing on the very long time it took to adopt the general recommendations on hate speech. Ms. Crickley replied that general recommendations are normally adopted by consensus; in the case of the hate speech general recommendation it was adopted related to the timeliness of the subject and was developed in a sensitive and informed manner. The Chair-Rapporteur asked about the issue of political will and what happened to victims in the meantime, and whether the Committee considered the impact on victims. Ms. Crickley stated that the Committee is very cognizant of victims and that general recommendations are always aimed at reflecting the ongoing and timely issues affecting the rights of people. The Chair-Rapporteur also mentioned the voluntary nature of general recommendations and asked how adequate remedies could be ensured given legal costs and access, to which Ms. Crickley stated that while legally-binding States' Parties are influenced by them and they are used as a guide to implementation and for future responses to the Committee.

73. The Chair-Rapporteur inquired as to whether CERD could conduct a quantitative analysis of the status of implementation of its general recommendations identifying satisfaction and weaknesses in order for the Ad Hoc Committee to provide a response as at

present there did not appear to be a way to judge the impact of general recommendations. Ms. Crickley responded that though welcome, such an analysis would be a large undertaking requiring considerable resourcing. However, States Parties could be asked how they were implementing the general recommendations, adding that a source for this information could be the "follow up process" of the Committee with States Parties which was creating increased engagement with the Committee and represented a turnaround time of about a year for follow up between the Committee and the given States party.

D. Comparison of the relevant procedures of other treaties

74. At its 5th meeting, on 15 July, Simon Walker, Chief of the Civil, Political, Economic, Social and Cultural Rights Section of the Human Rights Treaties Division (HRTD) at the Office of the United Nations High Commissioner for Human Rights presented a comparative overview of the relevant procedures of the treaty bodies. He provided an outline of the procedures of all treaty bodies, stating that the main procedure for all ratifying Member States is the reporting procedure, which is essentially an invitation to the State party to hold a constructive dialogue with the Committee. He discussed this traditional procedure as well as the simplified reporting procedure developed in recent years. In this optional procedure which must be accepted by the State party, the reporting procedure is triggered by the Committee which sends a list of questions to the State party. It is simplified because the State Party is informed in advance about the area on which the Committee will focus during the dialogue. This procedure has been adopted initially by the Human Rights Committee and Committee against Torture, followed by other committees. He explained that General Assembly resolution A/RES/68/268 on strengthening and enhancing the effective functioning of the human rights treaty body system recognised this and encouraged State parties to adopt this procedure. CERD has adopted it and it has sent such a request to certain States parties to see if they are interested in adopting that procedure. Connected to the reporting procedure is the follow up procedure, which not all committees have it but an increasing number now have this procedure.

75. He referred to different procedures under specific United Nations treaty bodies, including the follow-up procedure; the early warning and urgent action procedure; the individual complaint procedure; the inquiry procedure; the inter State procedure; and, the urgent action procedure. In terms of comparing each of these procedures, he emphasized that the reporting procedure is a constructive dialogue and it applies to all States parties of a particular treaty. It is aimed at considering the implementation of the treaty provisions by its States parties with the view to assisting them to improve the implementation of that treaty. This is different form individual communications which consider alleged specific violations, and deal with different situations. There are, however, other specific procedures, such as the urgent action procedure under the Committee on Enforced Disappearances which are specific to a particularly treaty.

76. With regard to resources, he mentioned that while the General Assembly had adopted these procedures it has not always provided concomitant resources. Resources are particularly needed when a Committee receives reliable information on serious, grave or systematic violations by a State party of the Conventions it monitors, and the inquiry procedure is initiated. He informed that when a committee decides to visit a State party, it requires six weeks of staff intensive work, and that resources have not been provided for this mechanism. In conclusion, in the context of resolution 68/268 and the reduction of extra-budgetary funds is presenting a significant challenge to the Office of the High Commissioner for Human Rights and is placing the treaty body system under strain.

77. The European Union representative thanked Mr. Walker for his presentation and noted that ICERD provides for the reporting procedure, the follow up procedure, the urgent

action/early warning and individual complaints procedures asked his view on the main obstacles to the effective implementation of the ICERD. Regarding concluding observations and recommendations of ICERD, she asked what could be done in terms of further supporting the implementation of observations and recommendations and whether OHCHR provides capacity building for States in terms of reporting obligations.

78. The representative of Brazil mentioned that some procedures, for example, visits were not foreseen in the ICERD and asked whether in his view an additional protocol would help to cover this procedural gap.

79. Mr. Walker explained that the adoption of resolution 68/268, strengthened the capacity of OHCHR to assist follow up and reporting and resulted in ten staff members at P3 level posted in all OHCHR regional offices, with the exception of Brussels and the regional office in Qatar. The capacity-building staff are supported by a small section in Geneva, through for example, developing training materials, organising regional workshops, assisting in the development of work plans, etc. He noted that it will be interesting to see if these efforts will result in increasing the number of reports as some countries are very late, while some countries have never reported. When lack of reporting is due to technical problems the capacity building programme could help to improve the situation, as this presented the most serious challenge. In response to the question about possible duplication with the mechanisms of the Human Rights Council, he mentioned that the Office does its best so that there is cross-fertilization in order to avoid duplication as much as possible.

80. The representative of Belgium highlighted that reporting and constructive dialogues are essential for the effective implementation of the ICERD. He noted that there is essentially universal ratification to the ICERD, but a very uneven reporting profile. It was almost always the same States parties reporting and some States are very late or have not reported yet, which is a weak point which can be identified as a gap in the machinery. He asked about the main obstacles to State party reporting, and about what relevant assistance could be made available to States to improve reporting.

81. The Chair-Rapporteur inquired about the effectiveness of the committees given the non-binding nature of the general recommendations and the uneven level of implementation of the treaty body recommendations, and the limited resources available. He asked about how far treaty bodies could be streamlined while ensuring that all human rights are protected. He also asked about whether there was information concerning the satisfaction of victims with the treaty bodies and whether other avenues were known to them. He mentioned that it was essential to have information about how far countries responded to the recommendations made by the various committees, in order to see how far existing mechanisms existing are effective, particularly for the victims. In terms of victims and complaints, he inquired if it could be answered intelligently the percentage of satisfaction of the victims with regards to complaints. Additionally, he asked that if the gap was as large as it appeared, what could be done to improve these mechanisms.

82. Mr. Walker mentioned that in terms of the satisfaction of victims, the fact that an alleged victim has recourse to lodge a complaint to an international body could bring satisfaction in itself, and has symbolic value. He noted that the fact that the process brings together States and civil society, facilitating a network of dialogue at the national level. He noted that an overall assessment would require a review of all follow up reports of the Committee. Thus far, OHCHR resources have been focused on supporting State reporting and individual communications leaving little time and resources for undertaking analysis.

83. The representative of Tunisia asked for clarification with regards to the simplified reporting procedure in terms of the conditions for appeal. Tunisia noted that it is working with OHCHR on a professional national mechanism that will focus on the preparation of

treaty body reports and follow up to establishing recommendations from treaty bodies and special procedures.

84. Mr. Walker clarified that although it varies from committee to committee, CERD has set the criteria for opening the simplified reporting procedure to those States Parties which are ten or more years overdue in their reporting. As a progressive introduction of the procedure, the next stage will open this procedure to States parties that are five years overdue in terms of reporting. In comparison, CESCR offers the possibility of the simplified reporting procedure to State Parties which are more or less on time with their reports to allow the Committee to test the use of this reporting procedure. He added that all the committees at this stage apply the procedure to periodic but not to initial reports.

85. The representative of Belgium was interested to learn that there had been some reporting developments in the Office and inquired whether the OHCHR could make a presentation on this specific aspect of capacity development during the current Ad Hoc Committee session.

86. The Chair-Rapporteur agreed and requested the Secretariat to follow up on the possibility of such a briefing during the 7th session.

87. At the 8th meeting on 16 July, and following the earlier request of the Ad Hoc Committee, Paolo David, from the Treaty Bodies Division of the Office of the United Nations High Commissioner for Human Rights gave a briefing on national reporting and follow up mechanisms. Mr. David explained the history of the treaty body strengthening process. He referred to General Assembly resolution 68/268 that contained various measures that should strengthen the treaty body system, including the assistance to States to develop and reinforce their institutional capacity. The Office had commenced a study to follow up on this initiative and was in the process of finalising the study. The presentation of the results of the study would also be linked to a practical guide.

88. One of the conclusions of the study was that in a number of States parties, temporary reporting mechanisms were evolving into permanent mechanisms. The objective was to facilitate the preparations of reports and cooperate with special procedures and follow-up on recommendations from international and regional mechanisms. The study concluded that mechanisms were more effective if they also dealt with regional mechanisms. Those national mechanisms needed to have the capacity and power to coordinate response and follow-up action. They also needed to be able to consult with a variety of stakeholders, such as national human rights institutions and civil society. The capacity to draft reports and responses (or facilitate the drafting of responses) under individual communications procedures of the treaty bodies and special procedures was also a useful capacity. And finally, the national mechanisms should have more efficient knowledge management capacities and political ownership.

89. Pakistan on behalf of OIC inquired whether OHCHR was aware of the number of States with such permanent mechanisms. Mr. David said that while there were no solid figures available, he estimated that approximately thirty States had a permanent mechanism, and added that several countries were lately moving from ad-hoc to standing mechanisms for the purpose of treaty body reporting.

90. The representative of Belgium said that reporting was an essential step towards implementation, and asked what assistance the new treaty body capacity building program of the Office of the High Commissioner for Human Rights was ready to provide to countries. Mr. David said that the Office had recently trained staff of such a mechanism at country level, and that experts and consultants were also ready to visit countries to provide expert advice and guidance to interested States parties. The representative also asked if there was a best practice example for a permanent national mechanism. The study, Mr. David noted, clearly concluded that the ad hoc format was not optimal. There were three

different typologies that had been established and had proven meeting the efficiency criteria. Those models foresee different coordination roles for the government ministries involved.

91. The representative of Tunisia said that it was currently setting up a permanent mechanism which could be linked to the office of the Prime Minister. The delegate sought Mr. David's advice on this undertaking and wanted to know if OHCHR's website featured the various responses from States to the relevant note verbale that had been sent to countries. Mr. David said that a few countries used interministerial platforms which were not placed under a specific ministry, which was slightly different than the Tunisian approach. He added however, that various models were possible. He agreed that OHCHR would follow up by placing the relevant information onto the OHCHR website.

92. The representative of Belgium added that Belgium had received assistance from the Office , in order to improve the performance of its mechanisms. The delegate asked whether the Office suggested particular follow-up methods to recommendations, such as a special software. Mr. David stated that there would be a capacity building webpage created on the website of the Office of the High Commissioner for Human Rights. The new capacity building team consisted of 16 people (10 placed in various regions) and the team in Geneva would indeed, develop a number of tools to assist States in implementing their treaty obligations. One good approach taken by a number of States was to cluster recommendations thematically, in order to manage the follow-up. He added that the use of deadlines was also recommended. A small number of countries had developed information technology IT tools, the Office could provide relevant information.

E. Procedural gaps with regard to the ICERD

93. At its 7th meeting, on 16 July, the Committee considered the agenda item "Further elaboration of the views of the Committee on the Elimination of Racial Discrimination on key elements with regard to procedural gaps and best ways to address them (follow-up to the 2007 study and the different presentations given and proposals made to the Ad Hoc Committee in accordance with its mandate)". The Chair-Rapporteur gave an account of the work of the Ad Hoc Committee thus far, on the topic of procedural gaps. He also presented a draft compilation document of the 2007 CERD report, and various presentations by CERD members as well as Member States interventions on the topic of procedural gaps to ICERD as considered by the Ad Hoc Committee on the Elaboration of Complementary Standards from its 1st to 6th sessions. He pointed out that the excerpts in the document reflected the exact language used during the 1st through 6th sessions of the Ad Hoc Committee. This document was distributed to all participants.

94. He recalled that the 2007 "Study of the Committee on the Elimination of Racial Discrimination on possible measures to strengthen implementation through optional recommendations or update of its monitoring procedures" (A/HRC/4/WG.3/7) focused on five issues. With regard to reporting and review procedures it was noted that non-compliance of States parties with their reporting obligations remained a major obstacle to the Committee's work and the effective implementation of the Convention. Therefore, the Committee suggested the adoption of revised reporting guidelines. On the issue of follow-up procedures, CERD suggested that the practice of follow-up visits be further developed and that the framework for such visits should be explored, including through the adoption of an optional protocol to the Convention. With regard to the individual communication procedure, it was noted that the potential of the procedure had not been fully exploited, and that it was essential that more States parties make declarations under article 14 of the Convention.

95. The 2007 study also addressed the need to enhance the effectiveness of the CERD through the establishment of an evaluation visit/inquiry procedure. CERD proposed to explore the need to enhance its capacity to prevent serious forms and consequences of racial discrimination through an evaluation visit/inquiry procedure. In relation to the need to enhance the promotion of racial equality and protection against discrimination through national mechanisms, CERD suggested the inclusion in an optional protocol of provisions on the obligation of States to establish, designate or maintain national mechanisms that will operate in cooperation with the Committee so as to strengthen the effectiveness of the monitoring role of CERD.

96. The draft compilation document also included excerpts from the session reports of the Ad Hoc Committee summarizing presentations and interventions made by delegates on the topic of procedural gaps at the first, third, fourth, fifth and sixth sessions.

97. The Chair-Rapporteur stated that the document was a compilation of previously published Ad Hoc Committee reports and the 2007 CERD study and that he welcomed further consideration of the document. He explained that CERD had been approached to present on this agreed agenda item, however the experts indicated that they had no further information or developments to present on the issue of procedural gaps. The Chair-Rapporteur suggested that some of the meetings of the following week be devoted to a discussion on this topic. He stated that the Ad Hoc Committee should address the CERD proposals with regard to procedural gaps and take steps to assist the Committee in this regard.

98. The representative of Pakistan on behalf of the OIC thanked the Chair-Rapporteur for presenting the compilation. Pakistan supported the idea of an additional protocol to ICERD. She stated that the OIC was of the view that additional protocols are required, as evident in the Committee on the Elimination of Racial Discrimination, the Intergovernmental Working Group on the Effective Implementation of the **Durban** Declaration and Programme of Action , and Ad Hoc Committee sessions and discussions. While it was agreed that there are gaps, there is a disagreement about how to address these gaps.

99. Based on all these deliberations thus far, the Ad Hoc Committee should start considering consolidating elements for an optional protocol. She noted that the issues on which there were substantive gaps were known and the subject of General Assembly and Human Rights Council resolutions; and that issues such as racism and sport, or elements from Human Rights Council resolution 16/18 on "Combating intolerance, negative stereotyping, stigmatization, discrimination, incitement to violence and violence against persons, based on religion or belief" could be integrated in such an optional protocol. Rather than separate sets of protocols, a comprehensive additional protocol should be considered to address all the gaps which have been identified, and that discussions could take place on how to move ahead on this. As is the case with any additional optional protocol, States Parties are given the opportunity to ratify or not such an instruments, but it should not delay the Committee from progressing with the drafting of the optional protocol. The representative suggested that a similar compilation on the issue of substantive gaps be prepared. The following week of the 7th session of the Ad Hoc Committee should be dedicated streamlining these elements, so that proposal could be placed on the table. She stated that this OIC proposal should be taken on board and reflected in the Ad Hoc session report.

100. The representative of the European Union also thanked the Chair-Rapporteur for the compilation and reiterated its position that the substantive provisions are sufficient. It was important to collectively look at how to use the monitoring mechanism of the Convention more effectively before moving ahead. It was also important to bear in mind capacity and resource issues. There is lack of reporting by so many states and lack of response to

concluding observations. With regard to victims, it should be noted that progress at national level has been made since the 2007 report of CERD.

101. The representative of Brazil pointed out that based on the compilation, CERD lacked some procedures which other treaty bodies had. The Ad Hoc Committee could not continue discussing matter indefinitely; it should discuss how to address these procedural issues, if in the form of an additional protocol, and move ahead.

102. The representative of South Africa stated that the compilation is a good basis for the exchanges which would be held the following week and for moving forward. There are points of agreement: for example, paragraph 18 referred to "the need for something complementary to what is already in existence". There is a need to complement the Convention and it is time to think about a possible text. The name of the text could be agreed at a later stage. She pointed out that, for example, the situation that had unfolded in Rwanda and issues concerning ethnicity were not covered by ICERD. Some have said that there are clear challenges and gaps that have to be filled, the question is whether the document will be binding or not. The representative invited members to agree and move forward.

103. The representative of the United States noted in his preliminary remarks, that position of his Government on the issue of procedural gaps had not changed. The best approach was to improve implementation of existing obligations rather than creating new procedural mechanisms. With regard to the issue of country visits, he said that UN special procedures mandate holders already undertake such visits. Action oriented, practical and useful initiatives need to be taken by the Ad Hoc Committee. He pointed out that the lack of reporting from states is a significant problem, and that the work of the Ad Hoc Committee should not be extended to include the Istanbul process and Rabat Plan of Action, but they can be highlighted as illustrative examples of a possible way forward.

104. The representative of Algeria stated that unfortunately there are still a number of gaps, despite the international instruments. The international efforts should not be in vain. She added that the presented draft compilation could be a good basis to move forward. She emphasized the importance of moving forward in order to fulfil the terms of reference for the establishment of the Ad Hoc Committee, adding that the following week the Ad Hoc Committee could start a substantive discussion, which could be reflected in the concluding remarks.

105. The Chair-Rapporteur stated that CERD would hold a session in a few weeks and that the Ad Hoc Committee could ask CERD to prepare an updated report on this issue of procedural gaps, as CERD had not followed up on its own 2007 report and it would be useful to have updated information. He inquired about any objections in the Ad Hoc Committee to this proposal.

106. The delegates of the European Union and the United States said that they would consult further in this regard as they were not in a position to endorse the idea of an updated CERD report.

F. Sport and racism

107. At the 9th meeting, on 20 July, the Committee considered the issue of racism and sport. Todd Crosset, Professor at the University of Massachusetts, and Delia Douglas, Professor at the University of British Columbia, and Benjamin Cohen, Head of Governance & Legal Affairs, International Basketball Federation presented on this topic.

108. In his presentation, Todd Crosset, Professor at the University of Massachusetts, illustrated how racism is a global system with particular local expressions, drawing

examples from the American context. He explained how current events made the topic of structural racism in sport especially important. Just as mind shaped conscience, he explained that body also shaped our conscience and people carried their racial identity deep within their bodies. Consequently, we could not just say no to racism. Sport was inherently conflictual, and so was racism. Every game is an opportunity for peace-making, but also carries the threat of the opposite. Fan engagement with a spectacle of physical conflict provides a context ripe for the expression of racist ideas. He added that ideas rarely espoused in public found their way into sporting events. The expert stressed that sport "recapitulates" rather than "reflects" dynamics of human relationships and societal values.

109. After the Second World War, athletes and sport pioneered an American version of integration and ushered in a tumultuous period of integration in American society. The expert stated that while post World War II integration of sport failed to adequately address racial justice, it did provide a road map for a broader approach to integration in America.

110. One central feature of American history was amalgamation. Another one was white supremacy — which resulted in a sense of being "normal" for white Americans. Today, we have become a society with few admitted racists yet with profoundly racialized outcomes.

111. He quoted scholar Harry Edwards that "Sport inevitably recapitulates the character, structure and dynamics of human and institutional relationships within (and between) societies. And it recapitulates ideological values and sentiments that motivate and rationalize those relationships." He argued that sport is not a mirror of society. The unique structures and practices of sport re-express and give new form to the character, structure and ideologies of a culture.

112. Mr. Crosset also discussed what he termed "the racial re-segregation of youth sport"; the repeated defence of demeaning symbols of indigenous people in sport; and racial inequities in the American collegiate sport system. Since the United Nations had weighed in on similar issues (such as the Sport for Development and Peace initiative) which declared that sport can contribute to community development and peace under the right conditions, he wondered if the United Nations, through this committee, couldn't make a similar statement about sport's anti-racist potential.

113. The expert closed his presentation by making a number of recommendations to the Committee with regards to their work involving racism in sport. In addition to encouraging equal access to sport, free of discrimination, the United Nations could also declare that athletes should be able to participate in sport free from excessive economic exploitation and athletes should receive reasonable compensated. Further, recognizing that sport governing bodies have a responsibility to the development of sport across a broad spectrum and levels of sports, and he posited that the Committee might encourage the promotion and development of sport in a manner that also ensures racial fairness and in a US context, discourage systems that disproportionately benefit white athletes.

114. He stated that the United Nations might also support research; provide encouragement, guidelines and best practices for coaches and communities on how to employ the sport experience to challenge racism much as they have for Sport Development and Peace. It might also, through this Committee, encourage national and international governing bodies of sport to develop generative strategies to support multi-racial youth teams, particularly those with leadership of colour at all levels; team, club, league with the expressed intent to combat racism. He also encouraged the Ad hoc Committee to reaffirm that it was a right of indigenous peoples to determine their identities and their portrayal by sporting teams.

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recognizing that sport governing bodies have a responsibility to the development of sport across a broad spectrum and levels of sports, and he posited that the Committee might encourage the promotion and development of sport in a manner that also ensures racial fairness.

116. The representative of the United States was interested to hear about how post-World War II integration in sport had been a model for American society at large. This integration of African-American athletes might have hurt black sport associations, but it was important to have universal institutions rather than racially divided ones. He also noted that, in his experience, private Youth Leagues in Washington D.C. were very integrated. The representative queried whether it was the recommendation of the expert that collegiate athletes be compensated for their participation in collegiate athletics. The representative then requested the expert's perspective on the presence of other forms of discrimination in sport, such as gender, disability and sexual orientation.

117. The representative of the United States noted that post-World War II integration in sport brought benefits to universal institutions, as well as the harm noted by the expert to black sport associations, such as the Negro Leagues. He also noted that, in his personal experience, private youth leagues in Washington D.C. were in fact, quite integrated. The representative queried whether it was the recommendation of the expert that collegiate athletes be compensated. The representative then requested the expert's perspective on the presence of other forms of discrimination in sport, on such grounds as gender, disability and sexual orientation.

118. The representative of Ghana requested the expert afford the Committee clarity on his use of the term, "people of colour." The representative then queried if there were any positive aspects to having mascots representing indigenous groups. Finally, he asked about current trends in race relations and whether the expert had seen any positive trends regarding racism in sport.

119. In response to the questions of the United States delegation, Mr. Crosset stated that the goals of post-World War II integration were well meaning, however there were flaws in the methodology of the integration process. The expert provided the example of how, at the time, the black community lost leaders because black athletes were integrated into white teams. The ultimate goal was full integration, but racial justice should have been a more integral part to the integration process.

120. The expert further noted that as the participation of black athletes in collegiate athletics resulted in a disproportionate financial gain to collegiate institutions, the topic of athletic compensation was especially important to the black community. Athletes whose talents create significant revenue for collegiate institutions should be reasonably compensated for their efforts. The expert also agreed with the United States delegation that there was intersectionality between many forms of discrimination and noted that all forms of discrimination needed to be addressed under the umbrella of non-discrimination.

121. In response to the questions from the representative of Ghana, the expert also stated that he would be conscious of using more specificity in the future in substitution of the term "people of colour." Regarding mascots, the expert explained that many team mascots represent offensive racial stereotypes. He used the example of the American Football team, the "Washington Redskins" as an example of a team name that rose to the level of a racial slur. Regarding the behaviour of spectators, the expert noted that in the American sporting context, racism rarely occurs in the stadium, but that it manifests itself in more subtle ways in American sports.

122. Delia Douglas of the University of British Columbia said that racism in sport is an important topic, because sport was a key part of North American culture.It was a place where different histories, traditions and myths met and intersected, creating cultural

meanings and identities that travelled across different mediums, national borders and commercial markets. As a site of interracial competition, cooperation, and antagonism, sport had played a profound role in civil rights, and social justice struggles in North America and across the globe. She addressed several issues of access and inclusion in her presentation.

123. She said that sport is a complex and contradictory space, for it is a place where the presence and success of one or two Indigenous or racial minority female athletes is seen as evidence of equality — or of the absence of racism — rather than exceptions to systemic racial exclusion and racial tension. The expert then explained the relationship between gender and sport focusing on the perception that athleticism and femininity could not be combined. She then offered specific examples of athletes that encountered discrimination because of gender, belonging to an indigenous group, geographical origin, different belief systems etc. The pattern of exclusions seemed to profit a privileged culture that did not accept minority participation in sport. Funding opportunities (scholarships) seemed to further that status. There was also a scarcity of minority women as coaches, she said. Race class and gender informed our opinions. A lack of visibility in sport reflected a larger social injustice. It was clear that the public, media, and sport officials use a vocabulary reminiscent of the dehumanization of black women during slavery equating their physicality and athletic performance to that of men or animals. She referred to the experiences of famous African-American tennis and basketball players such as Venus and Serena Williams and their experiences with racism and gender bias.

124. Ms. Douglas stated that racism in sport was an area that had not been routinely acknowledged in North American dialogues, and stressed the importance of the topic as it magnified racism and helped sustain racism in society. Racism in sport therefore, was an important human rights issue. The expert then recommended three possible areas of United Nations involvement. First, society needed to have some understanding of what racism involved — and to recognize its diversity and complexity. In turn, our responses had to be multidimensional and expansive; society had to acknowledge it was not an individual problem, but a social issue. Second, society needed useful research on the topic for analysing the relationship between racism and sport in order to define ways to diversify society. Finally, the expert said that it was clear that media and sport institutions did not correspond to the multiracial, pluri-cultural and pluri-lingual characteristics of North American populations. As a way of redressing this imbalance, legislation could be developed and applied to sport governing bodies — inter and intra-nationally, including: FIFA, FIBA, IAAF and IOC.

125. The representative of the United States appreciated the elaboration on different forms of discrimination and intersectionality by the expert, including groups such as African Americans, women, Asian, indigenous, and LGBT persons. He asked how to address the difference that she noted in perceptions between black and white sport successes, and queried whether the expert had any optimism or thoughts regarding how to improve the situation.

126. The expert stated that systemic exclusion and disparate racial standards needed to be addressed by societal education. She then contrasted similarities and differences between forms of discrimination and emphasized the need for visibility across all forms of discrimination. The expert added that she did have hope on this topic and stressed the need to acknowledge the current state of racial circumstances in order to move forward.

127. The representative of South Africa referred to social media and queried whether North American legislative policies have addressed discrimination in social media. In response, Ms. Douglas noted that the United States and Canada exhibited political difference regarding free speech. The expert stated that online bullying was an issue that had been addressed in Canada, but she was unaware of any examples of government

addressing online racism. She stated that she was aware of the tension between prohibitions and the freedom of speech, and noted that there was inequality at the various levels involved.

128. The representative of Ghana stated that the sisters - Venus and Serena Williams - should not be left alone to fight issues of racism in the sport of tennis. He then questioned if governments are working steadfastly to mitigate the effect of racism on athletes. The expert responded that governments could do more to assist athletes in their fight against racism. She posited that sport was not separate from society and therefore governments had to address this issue. Additionally, an increased number of media voices combating racism in sport could have a positive impact.

129. The representative of Cuba thanked the presenters for the diverse examples of discrimination in sport they had illustrated. She asked if the experts had cooperated with United Nations Office of Sport for Development and Peace (UNOSDP)and the Committee on the Elimination of Discrimination against Women (CEDAW)., and also asked if the Committee could work on racial discrimination of women in sport — in order to connect initiatives and questioned whether there was a database on those issues relating to sport. Ms. Douglas responded that her research drew from United Nations reports in a number of cases, but had not as yet had the opportunity to collaborate with UNOSDP or CEDAW on these issues.

130. At this meeting, Benjamin Cohen, Head of Governance of Legal Affairs for the International Basketball Association (FIBA), also presented on the issues of racism in sport. He stated that he considered sport as one of the most powerful tools to fight racism. In his view, athletes regularly did not care about race, but were more concerned about their team and the sport. It was important for sports federations and the United Nations to promote the positive side of sport in order to combat racism by promoting unity. He outlined the work of FIBA and its regulatory structure as relates to issues of anti-discrimination.

131. Mr. Cohen mentioned that players regularly encountered racial problems. The expert used the example of Switzerland, stating that although there were Swiss laws against racism in existence, they are not regularly implemented. The expert posited that this lack of implementation was not as large of a problem in a sport stadium. The expert explained that the foremost problem with racism in sport were sport fans that abused sports for their discriminatory messaging. The expert then referred to the pertinent legal framework, in particular the Olympic Charter, which forbids discrimination on all grounds. He described the Comprehensive Code of Ethics prohibiting discrimination instituted by FIBA, adding that in his view this legal framework was sufficient to deal with any discriminatory behaviour in basketball stadiums.

132. The expert stated there had been very few incidents of racism in FIBA. He added that without cooperation between States and sport federations all sanctions were toothless.

133. Mr. Cohen then explained FIBA's position concerning its rule on the ban on head scarves and other garments during FIBA play. He stated that FIBA rules needed to apply in more than 200 countries, and that reaching uniformity was an on-going challenge. He explained that, absent this rule, there was no limit on what players could wear during a match. He stated that discrimination was also present in some country's which did not invest in the training of girls, or allow men or male coaches at the games. Therefore, there could be claims of discrimination directed against FIBA, while discrimination was being practised by the complaining country. The expert suggested that the United Nations could provide direction to sporting associations regarding best practices in difficult areas surrounding racism.

134. Mr. Cohen replied that in his view racism was not the top priority of sports organisations, though it was an important issue. He stated that nearly all organisations have

zero tolerance policies on racism in sport. On the subject of inter-agency cooperation, he noted that there were common meetings where good governance was being discussed.

135. The representative of Greece welcomed the introduction of the theme on racism and sport to the program of work of the Committee and referred to the country's activities at the Human Rights Council on the issue of promoting human rights through sport. She specifically referred to the participation of Greece as one of the main sponsors of the resolution "Promoting Human Rights through Sport and the Olympic Ideal" and to the "Joint Statement on Sport and Human Rights" that Greece presented, together with China, at the 28th Session of the Human Rights Council. She also stressed that Greece had set the fight against racism as a top priority in its National Action Plan on Human Rights. The delegate stated that the Advisory Committee would present a study on sport and human rights during the 30th session in September. She also stressed that, especially on the occasion of the 50th anniversary of its adoption, the ICERD is an important instrument in the universal efforts to prevent, combat and eradicate racism. She then queried if there was existing cooperation between sport organisations on the issue of discrimination.

136. The representative of South Africa cautioned that it was inadvisable that the suffering of victims be trivialized in the context of presentations to the Ad Hoc Committee. The representative inquired about the high level business model in the United States where white managers managed black players. She also queried in what ways players wearing a head scarf could impede the sports matches.

137. Ms. Douglas agreed with the South African representative and illustrated that the discussion on the issue of the hijab or head scarves became more salient after 9/11. The expert highlighted the importance of questioning sporting rules and regulations, as the agendas behind the rule and regulations are important to keep in mind. The expert also expressed a danger in asserting the notion of universality in regulation, because the issues being considered are not homogenous.

138. The representative of Ghana questioned if it may be a good practice to alert audiences that discrimination was forbidden by printing such a statement on tickets. He then noted that there were clear rules against racism in sport in many countries, but the problem was enforcement and stated that education and related sectors needed to be strengthened in order to address this important issue.

139. The representative of Argentina highlighted the efforts of the country against racism and described the work of the Instituto Nacional contra la Discriminación, la Xenofobia y el Racismo (INADI) in the area of sport and racism. Additionally, the delegate explained Argentina's current efforts to conduct studies in the area of fan behaviour and racism in sport.

140. The discussion on racism and sport continued at the 10th meeting of the Ad Hoc Committee on 20 July. Gerd Dembowski, Diversity and Anti-Discrimination Manager at FIFA Sustainability Department, briefed the Committee on FIFA's strategic approach and actions on non-discrimination. He said that it was of importance that FIFA pursued a strategic approach to combating racism in FIFA rather than acting on a case by case basis. The strategy was based on the FIFA statutes, particularly Article 3 on non-discrimination. All other existing FIFA codes drew from Article 3.

141. The strategic approach of FIFA to anti-discrimination had five main pillars: Communications, Controls and Sanctions (individual bans, fines, and point deductions), Education, Regulations, Networking and Cooperation. Only FIFA games and competitions were covered. Currently, FIFA organised 860 games "on the road" to Russia.

142. The expert explained that while regulations and sanctions were important portions of FIFA's anti-discrimination strategy, but education was an equally vital aspect. He stated

that enhancing education on a global level had proved challenging but could be assisted by advocating best practice examples. Mr. Dembowski highlighted that networking and cooperation were an important part of FIFA's ability to combat racism as FIFA did not have experts on all relevant issues. The expert stressed the need for FIFA to cooperate with experts on racism to further their strategic approach.

143. The expert explained how FIFA assisted all member federations to improve along those five pillars. Although FIFA's power was limited as member associations were independent, FIFA could intervene to a certain degree. FIFA has implemented a Task Force on Racism, which was interdisciplinary and had recently hired a specialist on non-discrimination in order to enhance the operative level. The expert further explained how FIFA trained football federations and match commissioners on anti-discrimination issues and highlighted the recent implementation of a FIFA anti-discrimination monitoring system. Mr. Dembowski then explained how high risk matches were identified and match observers (trained by the non-governmental organization FARE) were sent to those matches. Following each match FIFA received a match report that had the same importance as the referee's match report. From that report FIFA decided if a case needed to be opened and whether an incident necessitated investigation. FIFA has also implemented and continues to celebrate annual anti-discrimination days.

144. The expert finally highlighted the intersectional approach of FIFA to anti-discrimination and explained that FIFA not only dealt with racism but consistently checked on what grounds a person was attacked (e.g. because she was a women, gay, lesbian etc.) The expert stressed the importance of addressing discrimination at large. The expert closed by describing FIFA's online platform to enable an ongoing exchange on best practices with the hope to encourage federations to take national action.

145. Daniela Wurbs, of the non-governmental organization Football Supporters Europe (FSE) introduced the FSE network which connected fans, organized campaigns, worked for the empowerment of fans and held dialogues with a variety of institutions.

146. Ms. Wurbs stated that fans were often only perceived as the main problem of football. There was a variety of reasons for racism in sport: athletes were mirrors of society but racism could also be used as a means for provocation by a minority of fans during a competition (the "us" against the "other"); and sport infrastructure often supported the exclusion of certain groups of society (such as women).

147. Ms. Wurbs stated that there might be a lack of such counter reactions by fans to racism in sport due to: a lack of education/information (adding that FSE did not support this argument as it presented an easy excuse); non racist fans fear of speaking up (culture of fear in the stands); anti-racism could be seen as breaking an established "no politics" consensus within the fan base; and, clubs and football associations were sometimes part of the problem — by virtue of marginalizing the problem.

148. She explained that the solution might be found in simple crowd dynamics. Indiscriminate use of force was seen by the crowd as illegitimate. Such force led to a counter reaction (solidarity effects of the crowd with the perpetrators). The aim was therefore for fans to regulate themselves. Peer pressure was the most valuable tool to achieve change. FSE acknowledges that this was the most sustainable solution. Consequently, fans needed to be empowered in order for peer pressure to be applied and for good examples to be shown. In order to implement this solution a multi-agency approach should be applied; indiscriminate treatment of fans (as the majority of the fan base consisted of non-racist fans) should be avoided; and clear messaging and credible long term messaging was needed (not red cards once a month).

149. Ms. Wurbs said that some of the key principles that should determine interventions were: the clear recognition of a problem; that institutions set clear messages (until the

message becomes part of the sport's DNA); messages needed to target individual perpetrators; clubs and football associations needed to encourage fans to speak up and report incidents; and positive developments and actions needed to be supported (such actions were however, seldom reported); and cooperation with local civil society.

150. She also introduced some fan projects which existed in a number of European countries and enabled long term cooperation with football fans in order to create a positive fan culture. She added that Supporter Liaison Officers (SLOs) were also a successful tool (and part of UEFA's licensing criteria, for example). Concluding she said that there needed to be clear national action plans against discrimination in sports (and society); sanctions should be directed against individuals; the focus of the strategies should be on prevention; community schemes should be introduced on club level; national funds that could fund grassroots projects against discrimination should be established; and diversity within the stadium should be promoted; and inclusive infrastructure in stadia should be provided.

151. The representative of Argentina made a statement emphasizing the importance of taking action in stadia. The Instituto Nacional contra la Discriminación, la Xenofobia y el Racismo (INADI) worked in Argentina on that subject and furthered mechanisms that promoted diversity. INADI also observed behaviour in stadia and addressed discrimination, including discrimination on the basis of race and sexual orientation, in football.

152. Des Tomlinson, of the Football Association of Ireland (FAI), introduced the intercultural football programme of the FAI. He noted the social potential of sport from enhancing the social good to its potential in addressing social divisions. Football could play a role, however partnership with other actors was needed to address social issues.

153. Mr. Tomlinson briefed the committee on the social environment in Ireland and the fact that its cultural landscape had evolved. The European Union Commission developed a policy paper on sport and its role in integration. In 2006 the intercultural football plan was developed in order to compliment state policy objectives (integration, antiracism etc.) The objectives of the intercultural strategy were: to promote participation; to challenge racism in football and beyond; and to support the process of integration. Based on those objectives the FAI developed a number of core programmes.

154. Mr. Tomlinson then explained the anti-racism rules and protocols of FAI and pointed to the various tools that could be used to support clubs (guidance, assistance for referees etc.). Referees cold use Law 5 mechanisms to stop, temporarily suspend or abandon matches. He also briefed the committee on the various forms of incidents, such as player to player incidents and the range of sanctions applied. The national league furthered anti-discrimination by emphasising intercultural football standards. It was important, Mr Tomlinson noted, that the UEFA 10 point plan became part of the licensing scheme. Match observers were also used on match days. Mr. Tomlinson further touched upon grass root movements, education, the FARE football week and the FAI's integration work. Mr. Tomlinson finally made a number of recommendations that were contained in his power point presentation that can be found online.

155. The representative of Ghana requested that experts give their perspective on the impact their respective policies and initiatives have had on the ground. Mr. Tomlinson responded that a good measurement of impact of the FAI initiatives was the decreasing number of incidents recorded following implementation. Ms. Wurbs stated that there needed to be supporting structures in order for a supporter not to be seen as a problem. Where there were structures (such as in the FSE best practise examples) in place, one could see positive results. Mr. Dembowski stated that the most important impact was that all football federations started to understand that the issue of discrimination needed to be addressed, and he believed that there was significant progress being made in this regard.

Mr. Crosset stressed the need for partnerships and supported the fact that FIFA was intentionally taking preventive actions against racism.

156. The representative of the United States underlined that "sport and non-discrimination" was an important topic, worthy of consideration. He requested comments on why Mr. Cohen mentioned that player-to-player incidents were not common in basketball, whereas Mr. Tomlinson mentioned that those incidents were common in football. He also noted that FIFA might seem slow to act in response to the issue of racism.

157. Mr. Dembowski and Mr. Tomlinson stated that in grassroots football there were more player-to-player incidents than in professional football, which likely accounted to a large degree for the difference in statistical evidence.

158. Mr. Dembowski noted that FIFA started working on the anti-discrimination programme in 2001 and that the programme took some time to implement as there were many countries that were slow in adapting, but there was a good policy basis that could be used. He stated that it would be helpful to have partners in the various football confederations, as often there was no counterpart interaction.

159. Ms. Wurbs stated that UEFA and FIFA were indeed late with tackling anti-discrimination because an early strategy was absent and FIFA had until recently relied on a negative approach, which has now been changed to a positive approach.

160. The representative of Tunisia stated that it was good to dedicate a day to this topic as sport reflected society, and inquired why the regime of sanctions that was applied when supporters threw objects (stones etc.) was not applied when it came to discrimination. Ms. Wurbs agreed with the representative of Tunisia in that racism should at least be sanctioned in the same way as throwing of objects.

161. The representative of Uruguay asked Mr. Dembowski how FIFA cooperated with referees, for example, what are referees trained to do when bananas were thrown into the pitch). He also asked how that issue would be dealt with in the context of the upcoming World Cup. Mr. Dembowski noted that the FIFA monitoring system should help referees to address discrimination.

162. The Chair-Rapporteur stated the topic was an issue for the Ad Committee and should remain a key priority for the Committee, and also suggested that it would be useful for each of the expert presentations to be posted on the Ad Hoc Committee webpage.

G. Panel discussion to provide a comparative perspective on national, regional and subregional mechanisms

163. At its 11th meeting, on 21 July, a panel discussion to provide a comparative perspective on national, regional, and subregional mechanisms was held. At short notice, the scheduled speaker on the African Union human rights system which addresses racism, racial discrimination, xenophobia and related intolerance, Michelo Hansungule from the Centre for Human Rights and the University of Pretoria, was unable to attend the session in Geneva due to a travel constraint. Linda Ravo, Directorate Fundamental Rights and Union Citizenship at the European Commission and Lyal S. Sunga, Head of the Rule of Law Programme at the Hague Institute for Global Justice participated in the panel discussion.

164. During her presentation, Linda Ravo, Directorate Fundamental Rights and Union Citizenship at the European Commission, emphasized that preventing and combating racial discrimination and xenophobia is a top priority for the European Union. She said that a solid legal framework has been developed over the years to address racism, xenophobia and hate crimes at the European Union level, including the Race Equality Directive and the

Employment Equality Directive of 2000, which provide for the obligation to ensure availability of judicial remedies to victims, provide for grounds for taking positive actions and setting up of equality bodies.

165. The European Union also adopted the Framework Decision to combatting racism and xenophobia by means of criminal law, which sets the frame for a common response to hate speech and hate crimes, ensuring accountability for perpetrators. The Framework Decision provides for liability of legal persons, ex-officio investigations and prosecutions, and jurisdictional rules. There are also the Victims' Rights Directive of 2012, including specific provision for bias motivated crimes and the directive concerning the broadcasting of cross—border audio-visual media services of 2010. These legal instruments envisage the minimum standards for harmonization but Member State can go beyond them. The challenge is not the transposition but their effective implementation. Laws are only as good as they can be implemented and monitored.

166. The speaker said that despite all the legal instruments, ethnic and religious minorities across the European Union continue to face racism, discrimination, verbal and physical violence. Recent reports show that racial and ethnic discrimination in areas such as healthcare or education persist within the European Union, with discrimination against Roma and immigrants, but also discrimination on the ground of religion or belief, being regarded as the most widespread form of discrimination in Europe.

167. She also emphasized the importance of preventive measures, systematic collection of data such as Eurobarometer and efforts to tackle underreporting of bias crimes. It is important to work with civil society organizations and to support them financially, enabling them to carry on their work in an independent manner. Capacity building and a multidisciplinary approach are also essential, and the demonstration of concrete data influences perceptions and limits populist discourse. Finally, a strong commitment was required from political leaders, local authorities and others.

168. The representative of Pakistan on behalf of OIC asked if hate speech has been criminalized in the European Union framework and about the definition of hate speech in terms of which crimes are covered. She also asked whether by the European Union instruments only racially- motivated crimes in the context of hate speech and xenophobia or whether it also covers religiously-motivated crimes which lead to incitement to hatred and imminent violence. She also asked if the Eurobarometer addresses discrimination on religious grounds apart from racism, given the issues of intersectionality of racism and religion, ethnic origin and migrants' status.

169. The representative of the United States asked if definitions of hate speech and hate crimes and discrimination address sexual orientation and gender identity, and whether there were available statistics on this particular ground. He also inquired about the European Union position on affirmative action.

170. Ms. Ravo replied that the European Union framework does not include definition of hate speech, although there was one in the initial draft of 2001. She noted the importance of the element of incitement with regard to hate crimes. She confirmed that religion is addressed by the European Union instruments while sexual orientation and gender identity are not part of the minimum requirements, but some States have extended the scope and addressed these grounds. She added that disability is also not covered by the European Union directive. She said that the 2000 Race Equality Directive includes a provision leaving Member States free to adopt affirmative actions in different areas, but there is no obligation.

171. Lyal S. Sunga, Head of the Rule of Law Programme at the Hague Institute for Global Justice, gave a presentation entitled "Improving coordination among national human rights institutions (NHRIs) on discrimination: considerations and recommendations from a

comparative perspective". He emphasized that the issue of coordination is a very important one. National human rights institutions mandated to address racial discrimination constitute a critical link between international and regional human rights standards and their practical implementation at domestic level. They are less effective where they don't conform to the Paris Principles and can fall prey to majoritarian tendencies and be insufficiently inclusive. Moreover, in any country, NHRIs often fail to coordinate with other NHRIs on matters of discrimination and sometimes duplicate the work of other NHRIs.

172. The speaker noted that the 2011 study of the Office of the High Commissioner for Human Rights on NHRIs in federal states is worth considering because the coordination challenges that federal states face, illustrate particularly well the same challenge that unitary States with multiple NHRIs face since racial discrimination is a cross cutting issue.

173. He provided an overview of NHRIs in Australia, Canada, India, Mexico, South Africa, the Russian Federation, Switzerland, Belgium, Germany and Brazil. In regard to the study recommendations, he emphasized that the government should not mandate human rights institutions to prepare its State report, but only to contribute to it, otherwise it could act more like an arm of Government and become less independent. He said that NHRIs with narrower anti-discrimination mandates should coordinate with more broadly mandate NHRIs and broader mandate NHRIs should have a special unit devoted to discrimination and vulnerable groups.

174. He also recalled that CERD recommended the establishment of NHRIs specifically mandated to prevent discrimination on the grounds of race, colour, and descent, national or ethnic origin and that an optional protocol should oblige States to establish, designate or maintain national anti-discrimination mechanisms that work in close cooperation with CERD.

175. The representative of the United States emphasized the importance of working with civil society organisations as well as the preventative aspects of anti-discrimination work.

176. Ms. Ravo asked a question with regard to the independence of NHRIs.

177. Mr. Sunga replied that the optional protocol notion was not part of the 2011 study of the Office of the High Commissioner for Human Rights and that he had utilized solely for the current presentation. The added value of establishing a focused body through an optional protocol would be for the complaints handling, not for promotion activities, as they are not a problem. Efficient and competent complaints handling requires expertise. An optional protocol might not attract a large number of ratifications, as there is a certain fatigue amongst Member States, and adding one more instrument might not attract interest. With regard to independence, he said that it is a difficult balance and the Paris principles do not clarify how the NHRIs should interact with the government. NHRIs representatives should not be part of drafting committees as drafting is a qualitatively different thing: it entails policy decisions, prioritization, frankness to articulate challenges and solutions.

178. The Chair-Rapporteur raised the issue of access to remedies for victims and the exhaustion of domestic measures. Mr. Sunga noted that the principle of exhaustion of domestic measures is very well established in international law and would likely not change without good reason. International mechanisms are intended to support and guide, and complement domestic jurisdiction. Ms. Ravo also emphasized the importance of the rule concerning the exhaustion of local remedies. Prosecution and investigation, amongst others are very important to effective national remedies.

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Annex II

Programme of work

	1st week				
	Monday 13.07	*Tuesday 14.07*	*Wednesday 15.07*	*Thursday 16.07*	*Friday 17.07*
10:00 – 13:00	**Item 1** Opening of the Session ***Yury Boychenko***, Chief of the Anti-Racial Discrimination Section **Item 2** Election of the Chair **Item 3** Adoption of the Agenda and Programme of Work General statements	**Item 5** Issues, challenges and best practices pertaining to reporting under the ICERD Convention [Presentations by individual States of the regional/other groups: Norway, United States of America]	**Item 7** Presentation by OHCHR: comparison of relevant procedures of other treaties [***Simon Walker***, Chief of the Civil, Political, Economic, Social and Cultural Rights Section, OHCHR]	**Item 8** Further elaboration of the views of the CERD on key elements with regard to procedural gaps and best ways to address them (follow-up to the 2007 study and the different presentations given and proposals made to the Ad Hoc Committee in accordance with its mandate)	UN Holiday
15:00 – 18:00	**Item 4** Assessment of the use of the complaint mechanism under article 14 [***Marc Bossuyt***, Member, Committee on the Elimination of Racial Discrimination]	**Item 6** Purpose of general recommendations by the CERD and the process leading to their issuance in the context of the effective implementation of the Convention, and possible shortcomings [***Anastasia Crickley***, Member, Committee on the Elimination of Racial Discrimination]	**Item 5 continued** Issues, challenges and best practices pertaining to reporting under the ICERD Convention [Presentations by individual States of the regional/other groups: South Africa]	**Item 5 continued** Issues, challenges and best practices pertaining to reporting under the ICERD Convention [Presentations by individual States of the regional/other groups: Pakistan, Guatemala, Ecuador, Belgium, Mexico]	UN Holiday

	2nd week				
	Monday 20.07	*Tuesday 21.07*	*Wednesday 22.07*	*Thursday 23.07*	*Friday 24.07*
10:00 – 13:00	**Item 9** Sport and racism [***Todd Crosset***, Professor, University of Massachusetts, USA; ***Delia Douglas***, Professor, University of British Columbia, Canada; ***Benjamin Cohen***, Head of Governance & Legal Affairs, International Basketball Federation (FIBA)]	**Item 10** Panel discussion to provide a comparative perspective on national, regional and subregional mechanisms [***Michelo Hansungule***, Professor, Centre for Human Rights, University of Pretoria, South Africa & Commissioner, International Commission of Jurists; ***Linda Ravo***, Directorate Fundamental Rights and Union Citizenship, European Commission; ***Lyal S. Sunga***, Head, Rule of Law Programme, The Hague Institute for Global Justice]	**Item 11** Questionnaire [Oral updates; Discussion on the questionnaire and follow up] General discussion and exchange of views	**Item 12** Discussion on the introduction of new/list topics…consideration of new/list topics Conclusions and Recommendations	Conclusions and Recommendations General discussion and exchange of views
15:00 – 18:00	**Item 9 continued** Sport and racism [***Gerd Dembowski***, Diversity & Anti-Discrimination Manager, Fédération Internationale de Football Association (FIFA); ***Daniela Wurbs***, Football Supporters Europe (FSE) Coordinator/CEO; ***Des Tomlinson***, Intercultural National Coordinator, Irish Sports Federation]	General discussion and exchange of views Conclusions and Recommendations	General discussion and exchange of views Conclusions and Recommendations	Compilation of the Report	**Item 13** Adoption of the report of the 7th session

Annex III

List of attendance

Member States

Algeria, Argentina, Austria, Belgium, Brazil, China, Colombia, Côte d'Ivoire, Cuba, Ecuador, Egypt, Ethiopia, Ghana, Germany, Greece, Guatemala, Ireland, Japan, Latvia, Mexico, Morocco, Namibia, Norway, Pakistan, Panama, Portugal, the Russian Federation, Rwanda, Saudi Arabia, South Africa, Spain, Sri Lanka, Switzerland, Tunisia, the United Kingdom of Great Britain and Northern Ireland, the United States of America, Uruguay, Venezuela (Bolivarian Republic of)

Non-member States represented by observers

Holy See

International organizations

International Labour Organization, United Nations Development Programme, World Health Organization

Intergovernmental organizations

European Union

Non-governmental organizations in consultative status with the Economic and Social Council

African Commission of Health and Human Rights Promoters, Association of World Citizens, International Youth and Student Movement for the United Nations (ISMUN), Mouvement International pour les Réparations, Rencontre Africaine pour la Defense des Droits de l'Homme, World Against Racism Network

Non-governmental organizations not in consultative status with the Economic and Social Council

AFROMADRID, Association des Bassas de Suisse, Association des femmes du Kwango-Kwilu "Mukubi", Collectif Afro-Swiss Humaine (CRED), Culture of Afro-indigenous Solidarity, Mouvement contre le racisme et pour l'amitié entre les peuples (MRAP), SOS Rassismus Deutschweiz